

**Please note: These transcripts are not individually reviewed and approved for accuracy.**

COMMITTEE MEETING  
STATE OF CALIFORNIA  
INTEGRATED WASTE MANAGEMENT BOARD  
PERMITTING AND COMPLIANCE COMMITTEE

JOE SERNA, JR., CAL/EPA BUILDING  
1001 I STREET  
2ND FLOOR  
COASTAL HEARING ROOM  
SACRAMENTO, CALIFORNIA

MONDAY, MARCH 5, 2007

10:00 A.M.

TIFFANY C. KRAFT, CSR, RPR  
CERTIFIED SHORTHAND REPORTER  
LICENSE NUMBER 12277

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

APPEARANCES

COMMITTEE MEMBERS

Ms. Rosalie Mulé, Chair

Mr. Jeffrey Danzinger

BOARD MEMBER ALSO PRESENT

Ms. Margo Reid Brown

Mr. Wesley Chesbro

STAFF

Mr. Mark Leary, Executive Director

Ms. Julie Nauman, Chief Deputy Director

Mr. Elliot Block, Chief Counsel

Mr. Richard Castle, Staff

Mr. Tad Gebre-Hawariat, Staff

Mr. Mike Leao, Supervisor, Plastics Recycling Technology  
Section

Mr. Jim Lee, Deputy Director, Special Waste Division

Mr. Howard Levenson, Deputy Director, Permitting &  
Enforcement Division

Mr. Wes Mindermann, Supervisor, Solid Waste Cleanup  
Programs Section

Ms. Dianne Ohiosumua, Staff

Ms. Carla Repucci, Staff

Mr. Edward Reidhead, Staff

Mr. John Smith, Acting Deputy Director, Waste Prevention  
and Market Development

Ms. Geralda Stryker, Supervisor, South Central Section

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

APPEARANCES CONTINUED

STAFF

Mr. Todd Thalhamer, Staff

Ms. Lorraine Van Kekerix, Acting Deputy Director,  
Diversion, Planning & Local Assistance Division

ALSO PRESENT

Mr. Clancy Tenley, U.S. EPA

Ms. Paula Harold, San Bernardino County LEA

Mr. Chuck Helget, Allied Waste

Mr. George Larson, Waste Management, Illinois Tool Works,  
American Chemistry Council

Mr. Bill Magavern, Sierra Club

Mr. Randy Pollack, Law Offices of Randy Pollack

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

INDEX

	PAGE
Roll Call And Declaration Of Quorum	1
Public Comment	
A. Deputy Director's Report	2
B. Consideration of the 2003/2004 Biennial Review Findings for the Source Reduction and Recycling Element; and Consideration of Issuance of a Compliance Order for the City of Downey, Los Angeles County -- (March Board Item 1)	12
C. Consideration of a Revised Full Solid Waste Facilities Permit (Disposal Facility) for the U.S.M.C. 29 Palms Disposal Facility, San Bernardino County -- (March Board Item 2)	22
D. Consideration of a New Full Solid Waste Facilities Permit (Transfer/Processing Facility) for Mid Valley Disposal Recycling and Transfer Station, Fresno County -- (March Board Item 3)	25
E. Consideration of a Revised Full Solid Waste Facilities Permit (Disposal Facility) for the Ramona Landfill, San Diego County -- (March Board Item 4)	29
F. Consideration of a Grant Award for the Solid Waste Disposal and Codisposal Site Cleanup Program (Solid Waste Disposal Trust Fund, FY 2006/07) -- (March Board Item 5)	30
G. Consideration of New Projects for the Solid Waste Disposal and Codisposal Site Cleanup Program (Solid waste Disposal Trust Fund, FY 2006/07) -- (March Board Item 6)	34
H. Consideration of the Grant Awards for the Farm and Ranch Solid Waste Cleanup and Abatement Grant Program (Farm and Ranch Cleanup Account, FY 2006/07) -- (March Board Item 7)	56

INDEX CONTINUED

	PAGE
I. Discussion and Request for Rulemaking Direction to Notice for 45-Day Comment Period Proposed Regulations of Postclosure Maintenance and Financial Assurance Demonstrations for Landfills -- (March Board Item 8)	58
J. Request for Rulemaking Direction Regarding Revisions to the Rigid Plastic Packaging Container Regulations -- ( March Board Item 9)	86
K. Adjournment	104
L. Reporter's Certificate	105

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

1 PROCEEDINGS

2 CHAIRPERSON MULÉ: Good morning, everybody.

3 Welcome to the March 5th meeting of the Permitting and  
4 Compliance Committee. We have agendas on the back table.

5 I'm going to ask everybody to either turn off or put in  
6 the silent mode your cell phones and pagers. And if you  
7 would like to speak to any item on the agenda, please fill  
8 out a speaker slip and bring it up to Donnell and you'll  
9 have an opportunity to address the Committee.

10 Donnell, would you please call the roll?

11 EXECUTIVE ASSISTANT DUCLO: Members Danzinger?

12 COMMITTEE MEMBER DANZINGER: Here.

13 EXECUTIVE ASSISTANT DUCLO: Chair Mulé?

14 CHAIRPERSON MULÉ: Here.

15 And we also have with us today Board Member  
16 Chesbro. Thank you for being here.

17 And do we have any ex partes?

18 COMMITTEE MEMBER DANZINGER: Up to date.

19 CHAIRPERSON MULÉ: I just spoke briefly with Pat  
20 Schiavo.

21 With that, let's proceed to our Deputy Director's  
22 report. First, we're going to go with Jim Lee and then  
23 Lorraine. And then we'll go to Item 1. And then we'll do  
24 Howard's Deputy Director's report and then continue with  
25 Item 2.

1           So Jim.

2           DEPUTY DIRECTOR LEE: Thank you, Madam Chair.

3 Good morning, Board members. My name is Jim Lee, Deputy  
4 Director for the Special Waste Division.

5           Madam Chair, I just have one item on my Deputy  
6 Director's report I wanted to bring to your attention. As  
7 you know, the Board has a nationally recognized expert on  
8 landfill fire suppression. It's Mr. Todd Thalhamer.  
9 Todd's expertise was recently called upon through a  
10 request made to our Executive Director from the head of  
11 the state of Ohio's Environmental Protection Agency. They  
12 had a landfill fire they felt that Todd could assist with.  
13 And Todd has recently provided some assistance. And we  
14 wanted to update the Committee on that particular work  
15 that was accomplished there.

16           And, again, as I also wanted to note as an aside  
17 and as a measure of Todd's dedication to duty that, you  
18 know, he is here today to make this presentation, despite  
19 the fact he and his wife are expecting their second child  
20 any hour now as I'm told. So without further ado and so  
21 we can get Todd out of here in short order, I'd like to  
22 turn it over to Todd to make the remainder of the staff  
23 presentation.

24           CHAIRPERSON MULÉ: Good morning.

25           (Thereupon an overhead presentation was

1           presented as follows.)

2           MR. THALHAMER: Good morning. Just to let you  
3 know, my ringer will be on. So I do want to violate one  
4 Board policy real quickly.

5           CHAIRPERSON MULÉ: You are the exception to the  
6 rule.

7           MR. THALHAMER: Thank you.

8           Just going to give you a brief overview of the  
9 particular incident in Ohio. It was a very unique  
10 situation. And I felt that it could provide some insight  
11 here in California, a few lessons learned as well.

12           As I'm calling it the perfect storm both on the  
13 landfill end of things and both also on the political side  
14 of things. Ohio had a change in their government, and I  
15 had briefed actually two directors, one on the 31st of  
16 January and a new director on the February 1st. So it was  
17 interesting just to see the dichotomy and the  
18 administration change as well.

19   --o0o--

20           MR. THALHAMER: Quickly a summary. Ohio EPA  
21 requested myself to evaluate a landfill fire at Countywide  
22 Recycling and Disposal Facility. This was precipitated by  
23 the fact that I just got done doing a training course for  
24 the state of Ohio on landfill fires in May 2006.

25           I did not know at the time, but I did have a



1 consultant that came up to me during the course and asked  
2 me about a heating issue with aluminum dross, which is a  
3 foundry waste from the manufacturing of aluminum. At that  
4 time, I did not know that this was the particular issue.  
5 So we did a little discussion on the side, and nothing  
6 came about that.

7 Later in August, I was contacted by U.S. EPA  
8 Region 5 concerning a landfill fire or a potential  
9 landfill fire at a facility called Countywide. It wasn't  
10 until January 31st that Ohio requested myself to travel to  
11 Ohio to review the facility, the records, and  
12 documentations and render opinion.

13 --o0o--

14 MR. THALHAMER: With that said, you saw the  
15 helicopter in the first slide. This is an aerial shot of  
16 the facility. And the lower right-hand side was about 88  
17 acres, of which 30 acres were affected. Started having  
18 some heating issues back in November 2005. Carbon  
19 monoxide was detected around four or 5,000 PPM in February  
20 2006, and had over 35 feet of settlement within six months  
21 in this area. This was attributed to a reaction of  
22 aluminum dross. That's just a waste product. It's  
23 interesting to note here in California we would not accept  
24 aluminum dross in our solid waste facilities because of  
25 the hazardous waste regulations that are in place for

1 California. And I will make a statement I will thank DTSC  
2 for those regulations, because this particular  
3 circumstance would have not occurred in California given  
4 the fact that we have special regulations that would  
5 require aluminum dross to be disposed of at a hazardous  
6 waste facility.

7 This whole thing was brought to light. And the  
8 reason I was out there was that an aerial survey company  
9 flew the site in August and showed that they had about two  
10 acres that were under heating event. And December, it  
11 showed 26 acres under a heating event, a 13-fold increase.  
12 At that point, he went to the papers. The political  
13 change came into play, and I was requested to come out and  
14 provide an opinion.

15 --o0o--

16 MR. THALHAMER: This is just a quick overview.  
17 In August, this was the two acre area that was the heating  
18 event. This is now the heating event that they were  
19 occurring to. A significant increase in the facility  
20 operations. They take approximately 6,000 tons of waste a  
21 day, so this is not a small facility. It's owned by  
22 Republic Waste, I believe the third largest disposal  
23 facility in the United States.

24 --o0o--

25 MR. THALHAMER: This was infrared that was shot

1 in August.

2 --o0o--

3 MR. THALHAMER: Now you can see the whole 26  
4 acres. You can see the increased temperatures and the gas  
5 extraction system.

6 --o0o--

7 MR. THALHAMER: And this is the entire facility  
8 laid out. The bright spots are the actual flare stations.  
9 So you can see we had a dramatic increase on the heating  
10 event that was occurring in the facility.

11 --o0o--

12 MR. THALHAMER: This is probably the most complex  
13 landfill fire I've looked into. It was not in the  
14 literature as far as the reactions with aluminum dross.  
15 It was heavily debated by the landfill. They claimed it  
16 was pyrolysis, not a landfill fire. Ohio EPA's internal,  
17 they were split. There was a small group in Ohio EPA that  
18 was looking at the overall issues. But most of Ohio EPA  
19 basically agreed with the landfill it was not on fire and  
20 that it was pyrolysis of the waste.

21 Again, interesting note here is that we changed  
22 directors February 1st. So I hit the ground January 31st  
23 and briefed the director. February 1st, I briefed a new  
24 director. So it was an interesting political change in  
25 the organization. So from that perspective, it was

1 definitely a perfect storm on both the landfill and  
2 political regulatory side.

3 --o0o--

4 MR. THALHAMER: Just to give you a reaction  
5 definition of what was going on. I explained to Ohio in a  
6 letter I provided to them that the definition of a fire is  
7 self-sustaining chemical reaction that produces energy.  
8 And the aluminum dross reaction that is there by adding  
9 water to aluminum, you produce hydrogen gas and aluminum  
10 oxide, which is heat. It's very similar, not at the same  
11 scale as the high school chemistry when we threw the  
12 sodium into the water, and you saw that reaction take  
13 place. Well, all the MSDS and all the regulatory  
14 information that's out there on aluminum dross is reactive  
15 to water.

16 Unfortunately, the landfill recirculated their  
17 leachate through this facility. When they recirculated  
18 the leachate to the facility, it kicked off a reaction on  
19 the aluminum dross, a severe reaction to the point where  
20 they were no longer producing methane. They were  
21 producing hydrogen to 30 to 60 percent. Normally you  
22 would produce methane at 30 to 60 percent. It took the  
23 place of the methane.

24 Again, I would say quickly just a quick overview  
25 is a landfill fire's carbon monoxide is over 1,000 PPM,

1 high temperatures over 350 degrees, smoke, settlement, et  
2 cetera, those points.

3 --o0o--

4 MR. THALHAMER: From my evaluation, I determined  
5 there were two fires. To the amazement of both Ohio EPA,  
6 the public, and the press, and the landfill, I basically  
7 stated in my record that there was a metal fire from the  
8 aluminum dross, which met the definition of a fire in  
9 Websters and throughout fire science. That particular  
10 metal fire actually caused a smoldering fire in the waste.  
11 That's where the carbon monoxide came from.

12 I provided an 11-point recommendation to the new  
13 director, and that actually hit the press. And just for a  
14 quick laugh, if you type in "Thalhamer landfill fire,"  
15 you'll see over 30 to 40 articles of this particular  
16 event. So in the political sense of things, this was a  
17 very contentious issue in Ohio. Many a public groups,  
18 many a public citizens, many lawsuits are probably on  
19 their way down the pipe.

20 But that was just a quick overview of my trip to  
21 Ohio.

22 --o0o--

23 MR. THALHAMER: Any questions?

24 CHAIRPERSON MULÉ: Any questions for Todd? Well,  
25 Todd, thank you for going to Ohio and sharing your

1 expertise with them. Thank you for sharing your  
2 presentation with us.

3 COMMITTEE MEMBER DANZINGER: And adding to our  
4 good reputation. Thanks, Todd.

5 CHAIRPERSON MULÉ: Okay. With that, Lorraine,  
6 would you like to give us your Deputy Director's report?  
7 Good morning.

8 DEPUTY DIRECTOR VAN KEKERIX: Good morning.  
9 Well, I'm sorry I have nothing as exciting as Todd's to  
10 report.

11 I have an update on biennial reviews of  
12 jurisdictions and reports. As of the February Board  
13 meeting, the Board has proved biennial review findings for  
14 292 jurisdictions. Of these, 256 jurisdictions were found  
15 to have met the diversion goal and implemented diversion  
16 programs. Thirty-four jurisdictions were found to be in  
17 compliance by demonstrating a good faith effort to meet  
18 the diversion goals through implementation of diversion  
19 programs as two jurisdictions were issued compliance  
20 orders for failure to comply with the diversion mandate.

21 For 2003-2004 biennial review for jurisdictions  
22 that have met the diversion requirements and implemented  
23 diversion programs were presented to the Executive  
24 Director as delegated actions this month. One 2003-2004  
25 biennial review is being presented to the Board this

1 month. And over the next few months, OLA staff will bring  
2 the biennial review findings for the remaining nine  
3 jurisdictions that are before the Board for consideration.  
4 118 jurisdictions were not subject to a biennial review as  
5 they were either granted an SB 1066 Time Extension that  
6 lasted through 2005 or they were already under a  
7 Compliance Order.

8 I have a reminder about jurisdictions and report  
9 due dates for those jurisdictions who are listening in.  
10 The due date for local jurisdictions to submit to the  
11 Board their annual reports for 2005 calendar year is March  
12 15th of 2007. We haven't had a lot of action on the  
13 website yet as it's an on-line report. As of March 1st,  
14 63 out of 421 local jurisdictions have submitted their  
15 annual reports.

16 We anticipate completing the review of the 2005  
17 annual reports by July. We also have State agency annual  
18 reports due. Their annual reports for the 2006 program  
19 year are due to the Waste Board by April 1st of 2007.  
20 There's a different method used for measurement so their  
21 information is more current. The State organization and  
22 facility assistance section is working to answer  
23 questions. And as of the end of February, we have 31 of  
24 the 404 reports submitted; 150 agencies and facilities are  
25 in the process of finalizing their report; and 223

1 agencies and facilities have not yet accessed the  
2 electronic reporting system.

3           And finally, I wanted to let you know that our  
4 Disposal Reporting System survey week site visits will be  
5 taking place a little bit later this week and into next  
6 week. Regulations require that disposal facilities asked  
7 each driver with a small load of uncompacted waste, less  
8 than 12 cubic yards, where the waste is from during the  
9 8th through the 14th of the last month of each quarter.  
10 DPLA staff will be visiting landfills, transfer station,  
11 and transformation facilities with trucks full of waste  
12 during survey week to determine whether the disposal  
13 facilities are asking and correctly recording the  
14 jurisdiction where the waste comes from. This is critical  
15 data in determining the diversion rates for each  
16 jurisdiction.

17           And that ends my Deputy Director report.

18           CHAIRPERSON MULÉ: Great. Thank you, Lorraine.

19           Do we have any questions for Lorraine?

20           Board Member Danzinger.

21           COMMITTEE MEMBER DANZINGER: Lorraine, are all  
22 those reports, are those tracking pretty much like they  
23 have in past years? Because some of them look like  
24 there's still a lot that need in a brief period of time.  
25 But is that unusual?



1           DEPUTY DIRECTOR VAN KEKERIX: Well, yes. We're a  
2 little lower than we usually are at this time of the year.  
3 So we're getting out mass e-mails and asking staff to  
4 phone either their state agencies or jurisdictions so that  
5 we get these things in on time.

6           COMMITTEE MEMBER DANZINGER: Thanks

7           CHAIRPERSON MULÉ: You have ten days -- or they  
8 have ten days.

9           So let's move to Committee Item B, Board Agenda  
10 Item 1.

11           DEPUTY DIRECTOR VAN KEKERIX: Committee Item B is  
12 Consideration of 2003-2004 Biennial Review Findings for  
13 the Source Reduction and Recycling Element, and  
14 Consideration of Issuance of a Compliance Order for the  
15 City of Downey, Los Angeles County.

16           And I would say that the Compliance Order does  
17 present an opportunity for a jurisdiction to take care of  
18 issues before coming back before the Board. And we are  
19 hopeful that jurisdictions on compliance take advantage of  
20 the opportunity rather than coming back for a potential  
21 penalty hearing. And Edward Reidhead of our Los Angeles  
22 staff will be giving the presentation today.

23           MR. REIDHEAD: Thank you, Lorraine. Good  
24 morning, Chairperson Mulé and Committee members.

25           Board staff is bringing forward its 2003-2004

1 biennial review findings that the City of Downey has  
2 failed to adequately implement its diversion programs to  
3 meet State diversion requirements and PRC 41780.

4           Board staff has met with city representatives  
5 regarding city programs and staff's biennial review  
6 findings. The primary processing facility that handles  
7 waste collected from the city was also visited as part of  
8 staff's review. Staff's review to date points to the need  
9 for improvement in the city's commercial and C&D recovery  
10 programs.

11           The City of Downey was issued a time extension  
12 through December 2004. The City's time extension  
13 indicated that a C&D ordinance would be adopted and  
14 implemented. To date, the City has not enacted a C&D  
15 ordinance. However, a policy was developed. The policy  
16 does not make requirements of the franchised hauler to  
17 divert collected materials. Although the City may be  
18 considered built out, redevelopment throughout the city is  
19 occurring, resulting in significant amounts of  
20 construction and demolition waste. Increased diversion  
21 from this sector is necessary for the City to meet  
22 diversion requirements.

23           Board staff visited the facility where the City  
24 directs the hauler to send all commercial loads for  
25 processing. Board staff observed that some commercial

1 loads were floor sorted to recover recyclables.  
2 Approximately half of all commercial loads were floor  
3 sorted and the other half were disposed. The haulers'  
4 2004 tonnage report indicates that less than five percent  
5 of commercial waste was handled by -- the hauler's 2004  
6 tonnage report indicates less than five percent of  
7 commercial waste by the franchise hauler was diverted.  
8 Staff's review of diversion data indicates that program  
9 enhancements to support diversion of commercial and C&D  
10 waste are needed as limited sorting and processing of  
11 materials is not providing sufficient recovery to support  
12 the City's achievement of diversion requirements.

13           The City's 2003-2004 diversion rates are 43  
14 percent and 44 percent respectively. Board staff  
15 recommends the Board issuing the City a Compliance Order  
16 that will require the City to work directly with Board  
17 staff to develop a Local Assistance Plan. The plan will  
18 identify a strategy for program enhancements and local  
19 actions necessary to enable the City to achieve diversion  
20 requirements.

21           This concludes my presentation. Mr. Desi  
22 Alvarez, Public Works Director for the City of Downey, is  
23 here to answer any questions. Thank you.

24           CHAIRPERSON MULÉ: Thank you, Edward.

25           Mr. Alvarez, would you like to address the

1 Committee? Good morning.

2 MR. ALVAREZ: Good morning, Madam Chair and  
3 members of the Committee. My name is Desi Alvarez, and  
4 I'm the Public Works Director for the City of Downey.  
5 Thank you very much for the opportunity to come up. I'd  
6 like to thank your staff. They've been very good to work  
7 with and looking at our overall program.

8 And one of the things I'd like to say is it's  
9 good that every once in a while we do audit things,  
10 because we all think we're doing very well. And then we  
11 find out that some things aren't working the way we  
12 anticipated.

13 The city of Downey has traditionally been very  
14 aggressive in promoting recycling. Beginning back in  
15 1976, the city was one of the first in the state to  
16 implement a voluntary curbside recycling program. And  
17 that program has been expanded over the years and today  
18 serves as a model in our region as one of the better  
19 programs around. And many others have copied that  
20 program.

21 Unfortunately, as we found out, our commercial  
22 growth has really gotten out of control if you will in the  
23 recent past. And because of the commercial diversion  
24 issues, we have not been able to meet our diversion  
25 requirements. So we're looking forward to taking

1 advantage of this Compliance Order to work with your staff  
2 in developing programs that will be aggressively pursuing  
3 significant improvements in our overall diversion rate.  
4 We are making a commitment to you that we will do  
5 everything possible to get there, including increasing our  
6 outreach and education programs, working with our haulers  
7 in developing new programs and implementing a C&D  
8 ordinance.

9           If there are any questions, I'd be pleased to  
10 answer them.

11           CHAIRPERSON MULÉ: Board Member Danzinger.

12           COMMITTEE MEMBER DANZINGER: I'm just curious, 43  
13 and 44, those are respectable numbers. And from what I  
14 read, it seems you're going to get there, you know. I  
15 guess I'm just struck by the policy, the C&D policy, why  
16 the policy would be written that requires the businesses  
17 to use the hauler, but then a requirement wasn't placed on  
18 the hauler to divert. It just seems -- you know, it seems  
19 like you got halfway there and then you just stopped and  
20 fell one step short of the requirement that would get you  
21 there. And I mean, if you told me or anyone probably  
22 three years ago this is how we're going to do it, I think  
23 a lot of people might say -- it depends on the hauler,  
24 too. But three percent, the connection there is pretty  
25 strong. So I'm wondering what kind of thinking went into

1 that and why that requirement wasn't placed.

2 MR. ALVAREZ: We thought that the voluntary  
3 program was going to get us there. Traditionally, in the  
4 past we've had good success --

5 COMMITTEE MEMBER DANZINGER: Is the voluntary  
6 program working in terms of the businesses participating?  
7 I mean, I guess that's what I'm curious about. It could  
8 be all the commercial businesses and all the commercial  
9 activities they are participating in the sense that they  
10 are using the City's franchise hauler, you know, to get  
11 rid of the C&D. And then so I don't know if that  
12 participation has been adequate. But then on the other  
13 end, the policy, you know, flaw of then not placing a  
14 requirement on the hauler to actually divert those  
15 materials. So the C&D, yeah. So I don't -- and how much  
16 with the growth that's going on, I don't know. That might  
17 make up the difference between 43 and 50 percent. I don't  
18 know.

19 MR. ALVAREZ: We've had significant growth just  
20 in building permits and so on. It's a 62 percent growth  
21 in the past two years. There's an awful lot of that type  
22 of activity. And I don't know -- I don't have an exact  
23 good answer for you. It's just one of those things that  
24 just got out of control.

25 The other thing is we do designate a specific

1 transfer station that all the waste is to go to and  
2 previously that was sorted. And as your staff mentioned,  
3 some of that is floor sorted now and some of it is not.  
4 And that was due to a change in the operations of that  
5 facility. So that's something else we do need to take  
6 into consideration.

7 COMMITTEE MEMBER DANZINGER: Well, I guess the  
8 optimistic way to look at it is you have tremendous  
9 opportunity. If you've got the hauler diverting the C&D,  
10 I mean, my guess is you're going to get there, and you're  
11 going to get there in a big way.

12 MR. ALVAREZ: We look at this as an opportunity.

13 CHAIRPERSON MULÉ: Very good. Because that's how  
14 we look at it. We look at this as an opportunity for you  
15 to improve on your current programs and policies. For  
16 example, with the C&D ordinance, it would be a policy to  
17 an ordinance.

18 And then the second thing I wanted to bring up is  
19 the commercial diversion. I think again there's quite a  
20 bit of opportunity. Rather than bringing it to the  
21 transfer station and sorting it then, it probably would  
22 behoove the cities to work with their haulers to set up a  
23 commercial recycling program to separate that material at  
24 the site and then collect it. And then it's clean  
25 material that can go directly to a MRF for processing it.

1           Thank you for being here. We really appreciate  
2 it. And we appreciate your commitment to making this  
3 work. So thank you very much.

4           MR. ALVAREZ: Thank you.

5           CHAIRPERSON MULÉ: Okay. Any other questions,  
6 comments? Do I have a motion?

7           COMMITTEE MEMBER DANZINGER: Yes, you do. I'll  
8 move Resolution 2007-65.

9           CHAIRPERSON MULÉ: Second.

10          Donnell, would you call the roll, please?

11          EXECUTIVE ASSISTANT DUCLO: Member Danzinger?

12          COMMITTEE MEMBER DANZINGER: Aye.

13          EXECUTIVE ASSISTANT DUCLO: Chair Mulé?

14          CHAIRPERSON MULÉ: Aye.

15          We'll put that on consent.

16          Thank you. Thank you, Edward, Steve for being  
17 here.

18          Howard, you're up next for your Deputy Director's  
19 report. Good morning.

20          DEPUTY DIRECTOR LEVENSON: Thank you, Madam  
21 Chair. And good morning to you and Members Danzinger and  
22 Chesbro. I'm Howard Levenson, Deputy Director for  
23 Permitting and Enforcement. And I have three items I'd  
24 like to quickly bring to your attention.

25          First is concerning existing regulatory packages



1 that are in development or further along. I wanted to let  
2 you know that the permit implementation regulations which  
3 the Board has approved late last week and which we  
4 forwarded to the Office of Administrative Law are almost  
5 at the time frame when they'll be effective. OAL has  
6 until sometime next week to make any final comments on it.

7           And assuming there is nothing major, then the  
8 regulations will become effective in 30 days from the date  
9 of that OAL determination, approximately mid-April. Those  
10 are the regulations that include provisions related to  
11 significant change and public noticing and hearing  
12 requirements and a variety of other issues. So we're  
13 getting close.

14           The second package that I wanted to mention is  
15 the active disposal site gas monitoring and control  
16 regulations which the Committee directed us last month to  
17 go out for an additional 15-day comment period. That  
18 comment period ends on March 9th. And then we will plan  
19 to return to the Committee in April hopefully for adoption  
20 of those regulations.

21           Second thing I wanted to let you know about is  
22 our collaboration with the Water Board on financial  
23 assurances training. As you know, under Title 27, the  
24 Water Board has financial assurance requirements for water  
25 quality related corrective actions, something that we

1 don't have and which is the subject of a later item. But  
2 we have provided training. We do administer that program  
3 for the Water Board. And we have provided training to  
4 them in the past. And we will be providing training for  
5 their southern California regional staff, Regional Board  
6 staff later on this month on the mechanics of that program  
7 and some of the other financial assurance requirements  
8 that are already existing.

9           And then lastly, I wanted to bring to your  
10 attention the California Biomass Collaborative's fourth  
11 annual forum which will be held later this month, March 27  
12 and 28th, here at Cal/EPA. As you know, the Biomass  
13 Collaborative is funded partly by CEC, the Energy  
14 Commission. And it provides a lot of the background work  
15 for the Governor's Bioenergy Interagency Working Group.  
16 And we're part of that, an active part of that.

17           The fourth annual collaborative, the second day  
18 the Board is sponsoring a focused set of sessions on solid  
19 waste to biofuels opportunities. And I think the agenda  
20 is shaping up very nicely. There is an announcement on  
21 our website. But we have, for example, Blue Fire Ethanol  
22 will be speaking. And they just received a \$40 million  
23 grant from the U.S. Department of Energy for a facility  
24 down in southern California. That's very exciting news on  
25 that front, and we'll be watching that very closely. We

1 also have a speaker from biogas production from  
2 Switzerland and others are on the docket. So it's looking  
3 pretty good.

4 That particular day also will be structured to  
5 have break-out sessions at the end so that the  
6 participants can identify any barriers that they see to  
7 the development of alternative energy and biofuels kinds  
8 of projects. And then at least get their sense of what  
9 potential solutions might be so we can bring that back to  
10 both the Board later on and to the Bioenergy Working  
11 Group.

12 That's all I have for my Deputy Director's  
13 report. I'd be happy to answer any questions.

14 CHAIRPERSON MULÉ: Any questions?

15 Okay. We'll proceed with Committee Item C.

16 DEPUTY DIRECTOR LEVENSON: We have three permit  
17 items. The first one is Consideration of a Revised Full  
18 Solid Waste Facilities Permit for the U.S. Marine Corps'  
19 29 Palms Disposal Facility in San Bernardino County.  
20 Dianne Ohiosumua will be giving that presentation.

21 CHAIRPERSON MULÉ: Good morning.

22 MS. OHIOSUMUA: The proposed permit will allow  
23 the following: A vertical landfill expansion; a lateral  
24 expansion; a development of a new landfill cell;  
25 construction of a transfer/processing facility; expansion

1 of the total permitted acreage; updating of the JTD;  
2 changing the estimated closure year; increasing the design  
3 capacity; increasing the maximum elevation; increasing the  
4 maximum daily tonnage; and modifying and deletions of the  
5 language in the permit conditions.

6 Board staff finds that the LEA has made all of  
7 the necessary findings relevant to the permit. At the  
8 time this item was prepared, Board staff had determined  
9 all but two of the requirements for the proposed permit.  
10 As indicated in the revised agenda item, Board staff has  
11 now made all of the required findings including the  
12 finding that the joint technical document meets the  
13 requirement and the facility is in compliance with the  
14 State Minimum Standards.

15 Board staff recommends that the Board adopt Solid  
16 Waste Facility Permit Decision Number 2007-66 concurring  
17 with the issuance of a Solid Waste Facility Permit Number  
18 36-AA-0067. Representatives from the San Bernardino  
19 County LEA is here to answer your questions. And that  
20 concludes staff's presentation.

21 CHAIRPERSON MULÉ: Thank you, Dianne.

22 Do we have any questions?

23 BOARD MEMBER CHESBRO: May I ask? The Marine  
24 Corps is the operator, or do they contract it?

25 MS. OHIOSUMUA: They contract it.

1 BOARD MEMBER CHESBRO: Who actually operates --

2 MS. OHIOSUMUA: They contracted to a civilian  
3 company that's on base.

4 BOARD MEMBER CHESBRO: I couldn't find it in the  
5 document.

6 CHAIRPERSON MULÉ: I didn't see it either. I  
7 thought the Marine Corps operated it. Do we know who the  
8 company is that runs the facility for them?

9 MS. OHIOSUMUA: The LEA will come and answer that  
10 question.

11 CHAIRPERSON MULÉ: Thank you, Diane.

12 COMMITTEE MEMBER DANZINGER: The Marine Corps is  
13 listed as the operator in the permit.

14 MS. HAROLD: Right. It is the Marine Corps, and  
15 it's their facility's --

16 COMMITTEE MEMBER DANZINGER: Management.

17 MS. HAROLD: -- management division.

18 COMMITTEE MEMBER DANZINGER: So it's not a  
19 civilian contractor that operates it?

20 MS. HAROLD: No.

21 COMMITTEE MEMBER DANZINGER: They would be DOD  
22 civilians as part of FMD, but they would still --

23 MS. HAROLD: Yeah.

24 COMMITTEE MEMBER DANZINGER: They would not be --

25 CHAIRPERSON MULÉ: Thank you for that question.

1 And thank you for the clarification.

2 MS. HAROLD: My name is Paula Harold, the San  
3 Bernardino County LEA.

4 CHAIRPERSON MULÉ: Thank you very much.

5 Do we have any other questions?

6 Do we have a motion?

7 COMMITTEE MEMBER DANZINGER: I'll move Resolution  
8 2007-66 revised.

9 CHAIRPERSON MULÉ: Second.

10 Donnell, please call the roll.

11 EXECUTIVE ASSISTANT DUCLO: Member Danzinger?

12 COMMITTEE MEMBER DANZINGER: Aye.

13 EXECUTIVE ASSISTANT DUCLO: Chair Mulé?

14 CHAIRPERSON MULÉ: Aye.

15 We'll put that one on consent.

16 Our next item is Committee Item D.

17 DEPUTY DIRECTOR LEVENSON: Thank you, Madam  
18 Chair.

19 This item is Consideration of a New Full Solid  
20 Waste Facilities Permit for the Mid Valley Disposal  
21 Recycling and Transfer Station in Fresno County. Geri  
22 Stryker will make that presentation.

23 SOUTH CENTRAL SECTION SUPERVISOR STRYKER: Good  
24 morning. Good morning, Chair and members. My name is  
25 Geri Stryker from the Permitting and Inspection Branch.

1 And I will be making the presentation on behalf of my  
2 staff, Virginia Humphreys.

3 This item is Consideration of a New Solid Waste  
4 Facilities Permit for the Mid Valley Disposal Recycling  
5 and Transfer Station. This is a newly proposed 34,250  
6 square foot material recovery facility and waste transfer  
7 station which includes a 22,000 square foot enclosed  
8 tipping area for recyclable and mixed MSW as well as an  
9 uncovered area for handling green waste and C&D debris.

10 The facility peak design capacity is 1,000 tons  
11 per day. However, the facility's proposed maximum  
12 permitted daily tonnage is 500 tons.

13 The proposed permit includes allowing for the  
14 operation of a new transfer station and processing  
15 facility, defines the permitted area as ten acres.

16 It allows a permitted maximum tonnage of  
17 non-hazardous MSW of 500 tons per day.

18 It allows permitted traffic volume of 131 one-way  
19 vehicle trips per day.

20 Allows for the receipt of waste Monday through  
21 Saturday from 6:00 a.m. to 7:00 p.m. with processing and  
22 transferring of waste 24 hours a day, 7 days a week.

23 The Fresno County LEA has provided a finding that  
24 the proposed solid waste permit is consistent with and  
25 supported by cited environmental document.

1           Board staff has determined that all of the  
2 requirements for the proposed permit have been fulfilled.  
3 And, therefore, Board staff recommends Option 1,  
4 concurrence with the issuance of the proposed permit  
5 submitted by the LEA and adoption of Resolution 2007-67.  
6 Joseph Kalpakoff, Mid Valley Disposal's Director of  
7 Operations, and Steve Crump and Randy Reyes, the Fresno  
8 County LEA, are present today to answer any questions.

9           And this concludes Board staff's presentation.

10           CHAIRPERSON MULÉ: Thank you, Geri.

11           Do we have any questions?

12           Board Member Danzinger.

13           COMMITTEE MEMBER DANZINGER: When did this  
14 project start? You know, when did it begin? This is a  
15 brand spanking new facility. When did the whole process  
16 to get this facility built and permitted begin?

17           MR. KALPAKOFF: Good morning, Chair, Committee  
18 members. Joseph Kalpakoff, Vice President of Mid Valley  
19 Disposal.

20           We started the permitting process probably around  
21 a year ago to do the paperwork and the environmental. We  
22 broke ground on the dirt around four weeks ago, moving  
23 dirt and getting it graded. So it's not built yet.

24           COMMITTEE MEMBER DANZINGER: But the process of  
25 getting to us started about a year ago.



1 MR. KALPAKOFF: Correct. Pretty quick.

2 COMMITTEE MEMBER DANZINGER: No. That is. You  
3 know, it's a relatively modest size facility. And I was  
4 just thinking it's instructive for us from time to time to  
5 take a look at how long it takes to work the process on,  
6 both from, you know, accelerating alternatives to  
7 landfilling and identifying 15 years of disposal. So I  
8 just wanted to peak my curiosity here.

9 One other question. What are the plans for the  
10 green waste and C&D that's going to be coming on the site?

11 MR. KALPAKOFF: The green waste and the C&D will  
12 be processed and hopefully to get over 50 percent  
13 diversion with C&D. And the green waste will then be  
14 ground up and taken to a composting facility.

15 COMMITTEE MEMBER DANZINGER: Because you can't do  
16 composting on this facility. That would be prohibited.

17 MR. KALPAKOFF: That's correct.

18 COMMITTEE MEMBER DANZINGER: Thank you.

19 CHAIRPERSON MULÉ: Okay. Any other questions?

20 Do I have a motion?

21 COMMITTEE MEMBER DANZINGER: Move Resolution  
22 2007-67.

23 CHAIRPERSON MULÉ: And I will second that.

24 Donnell, please call the roll.

25 EXECUTIVE ASSISTANT DUCLO: Member Danzinger?

1 COMMITTEE MEMBER DANZINGER: Aye.

2 EXECUTIVE ASSISTANT DUCLO: Chair Mulé?

3 CHAIRPERSON MULÉ: Aye.

4 And we will put that one on consent as well.

5 And our last permit for the day.

6 DEPUTY DIRECTOR LEVENSON: Our last permit is  
7 Consideration of a Revised Full Solid Waste Facilities  
8 Permit for the Ramona Landfill in San Diego County. And  
9 that will be presented by Tad Gebre-Hawariat.

10 MR. GEBRE-HAWARIAT: Good morning.

11 The proposed revised permit is to allow the  
12 following:

13 Change in the landfill design capacity based on  
14 better or improved calculations from 2.2 to a little over  
15 3.1 million cubic yards.

16 Change the estimate of the landfill closure  
17 period from 2006 to 2011.

18 And allow a change in the quantity of processed  
19 green materials to be brought on site from the currently  
20 allowed 15 tons per year to a maximum of 150 tons per day  
21 and even a rolling seven-day average of 70 tons per day  
22 with an on-site storage limit of 450 tons.

23 As we have indicated in the table of page 4-4 of  
24 the revised agenda item, all of the requirements for the  
25 revised permit have been met.

1           Therefore, staff recommends that the Board adopt  
2 Resolution Number 2007-68 concurring with the issuance of  
3 Solid Waste Facility Permit Number 37-AA-0005.

4           Ms. Rebecca Lafreniere and Ms. Pamela Raptis, the  
5 LEA, and Mr. Neil Moore, the operator, are here to answer  
6 any questions you may have.

7           This concludes my presentation.

8           CHAIRPERSON MULÉ: Thank you, Tad. And I see  
9 Rebecca and Pam and Neil out in the audience. Thank you  
10 all for being here today.

11           Do we have any questions for the operator or the  
12 LEA?

13           COMMITTEE MEMBER DANZINGER: I have none.

14           CHAIRPERSON MULÉ: None. Okay. Seeing no  
15 questions, do I have a motion?

16           COMMITTEE MEMBER DANZINGER: I'll move Resolution  
17 2007-68 revised.

18           CHAIRPERSON MULÉ: I will second that.

19           And let's substitute the previous roll, and we  
20 will put that item on consent as well.

21           Okay. Our next item is Committee Item F.

22           DEPUTY DIRECTOR LEVENSON: Thank you, Madam  
23 Chair. We'll get the PowerPoint up for that.

24           This item is Consideration of a Grant Award for  
25 the Solid Waste Disposal and Co-Disposal Site Cleanup

1 Program. The next three items are all related to our  
2 various cleanup programs. This one is a grant. In each  
3 one of these, you know, we will have some information from  
4 Wes on the current status of the trust funds involved. So  
5 I'll turn it over to Wes Mindermann for this presentation.

6 CHAIRPERSON MULÉ: Good morning.

7 (Thereupon an overhead presentation was  
8 presented as follows.)

9 SOLID WASTE CLEANUP PROGRAMS SECTION SUPERVISOR

10 MINDERMAN: Good Morning, Madam Chair, Committee Member  
11 Danzinger, and Board Member Chesbro.

12 --o0o--

13 SOLID WASTE CLEANUP PROGRAMS SECTION SUPERVISOR

14 MINDERMAN: We have a very simple grant for you to  
15 consider for approval this morning. The San Diego County  
16 Department of Parks and Recreation has identified 23  
17 illegal dumping sites in the Otay Valley Regional Park.  
18 Since 2000, the Parks Department has had many organized  
19 cleanup efforts removing over 1300 tons of solid waste  
20 from the use of over 18,500 hours of volunteer labor.

21 This morning, the County is seeking \$360,000 in  
22 grant funds to continue previous public and private  
23 efforts to remove the last and most difficult to remove  
24 debris from remote areas of the park. In addition, to  
25 prevent future dumping, easily accessible locations will

1 be fenced off and "no dumping" signage will be installed  
2 at each site at the conclusion of the clean up project.  
3 The grant application for this project has been evaluated  
4 and scored by staff, and we're recommending approval this  
5 morning.

6 --o0o--

7 SOLID WASTE CLEANUP PROGRAMS SECTION SUPERVISOR  
8 MINDERMAN: With respect to impacts on the Solid Waste  
9 Trust Fund which funds the Solid Waste Disposal and  
10 Co-Disposal Cleanup Program, as you can see, our  
11 unreserved balance as of the end of the calendar year was  
12 a little over \$6 million. If the Board decides to approve  
13 this project, the unreserved balance would be roughly  
14 5,642,000.

15 That concludes my presentation. I'd be happy to  
16 answer any questions.

17 CHAIRPERSON MULÉ: Thank you, Wes.

18 Do we have any questions on this site cleanup?  
19 Board Member Danzinger.

20 COMMITTEE MEMBER DANZINGER: This is the Otay  
21 Valley; right?

22 CHAIRPERSON MULÉ: Yes, this is.

23 COMMITTEE MEMBER DANZINGER: I just wanted to be  
24 clear I was reading this right. Wes, it reads as if the  
25 illegal dumping was happening until about year 2000. And

1 since 2000, you've had this group of folks, this cadre of  
2 folks, working to clean it up. Did the illegal dumping  
3 largely stop at that point in time or has there still been  
4 illegal dumping on the site since 2000?

5 SOLID WASTE CLEANUP PROGRAMS SECTION SUPERVISOR

6 MINDERMAN: We've discussed this with the grantee, and it  
7 seems like the illegal dumping has subsided since the  
8 formation of the regional park. That didn't happen around  
9 2000. I'm not sure of the exact date. But since the  
10 volunteer efforts and this regional park has come into  
11 more public use and the public has accessed it more as a  
12 park, the illegal dumping has subsided. It's staff's  
13 opinion that the signage and fencing in the easily  
14 accessible areas will further decrease the possibility of  
15 further dumping.

16 COMMITTEE MEMBER DANZINGER: Thanks.

17 CHAIRPERSON MULÉ: Thank you, Wes.

18 Okay. Do I have a motion?

19 COMMITTEE MEMBER DANZINGER: You do. I'll move  
20 Resolution 2007-69.

21 CHAIRPERSON MULÉ: Second.

22 Let's call the roll on this one.

23 EXECUTIVE ASSISTANT DUCLO: Member Danzinger?

24 COMMITTEE MEMBER DANZINGER: Aye.

25 EXECUTIVE ASSISTANT DUCLO: Chair Mulé?

1 CHAIRPERSON MULÉ: Aye.

2 We will put that item on fiscal consent. Thanks,  
3 Wes.

4 Next item.

5 DEPUTY DIRECTOR LEVENSON: The next is  
6 Consideration of the New Projects for the Solid Waste  
7 Disposal and Co-Disposal Cleanup Program. The last item  
8 concerned a grant, which did take moneys from our  
9 unreserved balance. This item concerns two potential  
10 Board-managed cleanups, which would be done under our  
11 existing contracts. So as Wes would show, there will be  
12 no impact on the unreserved balance. These two sites are  
13 two very exciting projects for the Board. And I'll just  
14 turn it over to Wes to describe them further.

15 (Thereupon an overhead presentation was  
16 presented as follows.)

17 SOLID WASTE CLEANUP PROGRAMS SECTION SUPERVISOR  
18 MINDERMAN: Again, as Howard described, this item is for  
19 consideration of new Board-managed projects under the  
20 Solid Waste Disposal and Co-Disposal Site Cleanup Program.

21 --o0o--

22 SOLID WASTE CLEANUP PROGRAMS SECTION SUPERVISOR  
23 MINDERMAN: Before I move into the item, I thought it  
24 would be helpful to give you an update as to what we're  
25 doing on the Torres Martinez reservation, as one of these

1 sites is a site on the reservation.

2           The tribe is continuing their illegal dumping  
3 reduction effort. I'll have a few slides following up on  
4 a few of these things that consist of monitoring,  
5 surveillance, and additional enforcement. With respect to  
6 the Tayawa illegal disposal site, which was approved by  
7 this Board -- and I think it was approved back in August  
8 2006, which was a Board-managed project was completed on  
9 September 18th, 2006. Our final costs were approximately  
10 \$148,000. And we removed 548 tons of waste, debris, and  
11 tires from two sites.

12           With respect to the Ibanez illegal disposal site  
13 cleanup which was approved by the Board in November of  
14 2006, we mobilized -- the Board's contractor mobilized on  
15 the site in January of 2007. And we've been working for  
16 about four weeks, and we estimate five weeks remain on  
17 that project. And we're in the process of processing the  
18 green waste and removing the solid waste from the site.

19           With respect to the AuClair dump site, which  
20 we'll be discussing for consideration later on in the  
21 agenda item, we're in the approval planning phase. And I  
22 just wanted to make you aware as we had indicated earlier  
23 there were many sites down on the Torres Martinez  
24 reservations that we would be working with collaboratively  
25 with the U.S. EPA Bureau of Indian Affairs and the tribal



1 government leaders to resolve.

2 One site that we recently visited on February was  
3 the Lawson dump site, and we participated in a  
4 multi-agency collaborative meeting. If you have any  
5 questions on that, I'll turn it over to Scott. But to  
6 move forward here a little bit.

7 --o0o--

8 SOLID WASTE CLEANUP PROGRAMS SECTION SUPERVISOR

9 MINDERMAN: Here is one of the signs that's been put up  
10 by the tribe on the reservation to stop illegal dumping.  
11 I actually called that number. It sends you to Crime  
12 Stoppers where you can report illegal activities  
13 anonymously. So seemed like it's very effective.

14 --o0o--

15 SOLID WASTE CLEANUP PROGRAMS SECTION SUPERVISOR

16 MINDERMAN: Here is the update. These are pictures kind  
17 of taken from afar. I didn't want to get too close  
18 because of the operations down there. But here you can  
19 see our work currently on the Ibanez illegal disposal site  
20 which we took in late February. You can see the solid  
21 waste is being staged for removal by bins and some of the  
22 activities in the background.

23 --o0o--

24 SOLID WASTE CLEANUP PROGRAMS SECTION SUPERVISOR

25 MINDERMAN: If you look here, buried in this mound of

1 processed debris waste you can see a tub grinder and  
2 loader processing the green waste for spreading activities  
3 later on in the project. So that kind of gives you an  
4 update with respect to the Board's activities on the  
5 Torres Martinez reservation.

6 --o0o--

7 SOLID WASTE CLEANUP PROGRAMS SECTION SUPERVISOR

8 MINDERMAN: Moving into what we're going to consider  
9 today, we've got two Board-managed projects. One is on  
10 the Indian Island illegal disposal site where staff are  
11 recommending a waiver from cost recovery, and the AuClair  
12 dump site on the Torres Martinez Reservation which staff  
13 will be recommending that we do pursue cost recovery on.

14 --o0o--

15 SOLID WASTE CLEANUP PROGRAMS SECTION SUPERVISOR

16 MINDERMAN: Jumping into it, the Wiyot tribe is  
17 conducting a cultural and environmental restoration on  
18 approximately 80 contiguous acres on Indian Island in  
19 Humboldt Bay, which encompasses the ethnographic Wiyot  
20 Village of Tuluwat and surrounding salt marsh habitat.

21 Over the past seven years, the tribe, with  
22 volunteers from the community, removed the majority of  
23 solid waste as part of the island's restoration. Despite  
24 the voluntary cleanup and restoration efforts to date, the  
25 tribe has been unable to clean up an old bulk head area on

1 a one-and-a-half acre parcel containing a former dry dock  
2 ship repair facility site purchased by the tribe in 2000  
3 and have requested assistance from the Board to complete  
4 the cleanup.

5 Board staff have evaluated the site, and although  
6 the cleanup is relatively small, it will be technically  
7 very difficult due to the location of the site adjacent to  
8 the open waters of Humboldt Bay. Our estimated cost is  
9 \$40,000, and we are recommending the Board approve the  
10 Board-managed cleanup of the site.

11 --o0o--

12 SOLID WASTE CLEANUP PROGRAMS SECTION SUPERVISOR  
13 MINDERMANN: As the tribe acquired the site for the public  
14 benefit and will be opening the site to the public for  
15 tours relating to its cultural and environmental history,  
16 restoring a rare salt marsh habitat and protecting  
17 sensitive cultural and archeological resources, cost  
18 recovery is not being recommended against the tribe.

19 Staff have received support of this item from the  
20 Wiyot tribe, the city of Eureka, and Senator Pat Wiggins,  
21 and all have indicated as staff believe that this project  
22 will not only benefit the Wiyot tribe, but also the  
23 surrounding communities and public and cultural resources  
24 of Humboldt Bay.

25 --o0o--

1               SOLID WASTE CLEANUP PROGRAMS SECTION SUPERVISOR

2   MINDERMAN:   Moving on to the second project for the  
3   Board's consideration, the AuClair dump site is  
4   approximately 25 acres and is located on the Torres  
5   Martinez Reservation allotment land.   The heir to the  
6   allotment, Mr. George AuClair, Jr., has been operating  
7   this site as an illegal solid waste disposal site where  
8   extensive and recurring open burning of solid and  
9   hazardous waste has occurred.

10              On January 29th, 2007, the United States  
11   Environmental Protection Agency and its contractors  
12   mobilized to the site to perform Phase I of its removal  
13   activities for hazardous materials.   These activities  
14   included constructing an earthen berm and trench barrier  
15   around the site parameter to control site access and  
16   prevent further illegal dumping, preparing chromated  
17   copper arsenate treated wood for transportation and  
18   disposal, and excavating chromated copper arsenate treated  
19   wood burn ash and preparing it for transportation and  
20   disposal.

21              The United States Environmental Protection  
22   Agency's activities were completed in February 2007.   To  
23   assist in the ultimate cleanup and further assessment of  
24   the site, the tribe and the United States Environmental  
25   Protection Agency requested that the Board consider the

1 funding of the removal of the remaining solid waste at the  
2 site that is outside the scope and jurisdiction of the  
3 Environmental Protection Agency removal action.

4 --o0o--

5 SOLID WASTE CLEANUP PROGRAMS SECTION SUPERVISOR  
6 MINDERMAN: Here's another picture of it as we go through  
7 the presentation.

8 COMMITTEE MEMBER DANZINGER: That's better.

9 SOLID WASTE CLEANUP PROGRAMS SECTION SUPERVISOR  
10 MINDERMAN: The Board's proposed remediation project  
11 would be undertaken in partnership with the United States  
12 Environmental Protection Agency's Emergency Response  
13 Program. The U.S. EPA is currently in control of the site  
14 and has agreed to retain control and take responsibility  
15 for disposal of hazardous waste discovered during our  
16 solid waste removal activities if approved by the Board.  
17 Due to the size and scope of the project, the  
18 United States Environmental Protection Agency and Board  
19 actions --

20 --o0o--

21 SOLID WASTE CLEANUP PROGRAMS SECTION SUPERVISOR  
22 MINDERMAN: -- may not completely address the potential  
23 residual contamination issues at the site with respect to  
24 future land use. And an assessment will be conducted to  
25 characterize the site after the solid waste removal

1 activities. The Torres Martinez Environmental Protection  
2 Agency and the Bureau of Indian Affairs have approved this  
3 course of action for the site. The U.S. EPA Bureau of  
4 Indian Affairs and the tribe will assist with the project  
5 to ensure restrictions on future site access. The Bureau  
6 of Indian Affairs has committed to controlling potential  
7 lease arrangements with the operators that could lead to  
8 the recurrence of similar site conditions.

9 In addition, the tribe is committed to an ongoing  
10 overall program to enhance illegal dumping prevention,  
11 including outreach, education, enforcement, cleanup, and  
12 infrastructure improvements. This program applies  
13 specifically to this site and includes increased  
14 monitoring and surveillance activities by the tribe and  
15 other agencies. Staff have evaluated the site, and our  
16 estimated costs if the Board were to approve it are \$1  
17 million.

18 And we are recommending the Board approved the  
19 Board-managed cleanup. Cost recovery against proposed  
20 potential responsible parties will be pursued for the  
21 proposed project to the extent practical.

22 Staff have received support from this item from  
23 the United States Protection Agency, the Bureau of Indian  
24 Affairs, the Torres Martinez desert Cahuilla tribe and the  
25 Coachella Valley Association of Governments.

1                               --o0o--

2                   SOLID WASTE CLEANUP PROGRAMS SECTION SUPERVISOR

3 MINDERMAN: If the Board were to approve the two sites  
4 for consideration on this item as indicated on the funding  
5 strip in the agenda item, the impacts to the unencumbered  
6 balance of the trust fund would be zero. That reason is  
7 because the moneys that would be utilized are already  
8 encumbered in our existing remediation contracts.

9                               --o0o--

10                  SOLID WASTE CLEANUP PROGRAMS SECTION SUPERVISOR

11 MINDERMAN: If you were to ask me today what our  
12 remediation contract status is, as you can see, our Recon  
13 contract, which is the one we utilize primarily for  
14 southern California projects, if you were to approve it  
15 would essentially utilize all of the remaining funds.

16                  With respect to the Indian Island project, if the  
17 Board were to approve it, our AJ Diani contract which is  
18 for the northern California area would have approximately  
19 \$2.71 million left in it.

20                  One thing to consider with respect to the status  
21 of the contract is that when we propose these contracts,  
22 it was originally slated that \$1.75 million would be added  
23 to the contracts for fiscal year 2007-2008 out of the  
24 trust fund balance. So we would anticipate more moneys  
25 becoming available for our southern California contract at

1 the beginning of the next fiscal year.

2 So that concludes our presentation. Staff are  
3 recommending that the Board approve both the sites for  
4 Board-managed cleanups with a specific waiver of cost  
5 recovery for the Wiyot tribe on the Indian Island project.

6 CHAIRPERSON MULÉ: Thank you, Wes.

7 We do have a speaker. Do you have a question,  
8 Board member?

9 BOARD MEMBER CHESBRO: I was going to make a  
10 comment, but if you'd like, I can wait until the speaker  
11 is done.

12 CHAIRPERSON MULÉ: Thank you. Clancy Tenley from  
13 U.S. EPA. Thank you for being here. Appreciate you  
14 making the trip.

15 MR. TENLEY: Thank you very much, Chair Mulé.  
16 And thank you to the rest of the Board members and the  
17 staff. My name is Clancy Tenley. I'm EPA Associate  
18 Director for Tribal Programs in our San Francisco office.  
19 I'd like to speak in favor of both the Wiyot project and  
20 the Torres Martinez project today.

21 I'd like to start by thanking the Board for your  
22 work at the Torres Martinez Reservation already. And I'd  
23 like to especially thank Scott Walker, Wes Mindermann, and  
24 Brad Williams for the hard work you're doing out there  
25 every day. It's getting hot on the reservation. It's



1 starting to get hot, and there's a lot of work left to do.

2 On behalf of the Torres Martinez Solid Waste

3 Collaborative, we'd like to thank the Board for your very

4 significant participation in this effort.

5 I was out at the reservation last week and went

6 to the Ibanez site, spoke with Brad Williams, and saw the

7 work you're doing there. And I can tell you, it's a very

8 impressive display of the Board's capability what's going

9 on at the Ibanez site with the earth moving equipment, the

10 tub grinding, and the vast amount of material you're

11 moving right now. Your work there has secured the site,

12 so no one can add to dumping and it will be very soon that

13 that site will be able to be leased by the Bureau of

14 Indian Affairs and put to productive use.

15 I'd like to give you a very short update on the

16 work of the overall collaborative effort on the Torres

17 Martinez Reservation. As you know, last April we formed

18 the collaborative with 25 State, local, and federal and

19 tribal agencies to stop dumping on the Torres Martinez

20 Reservation. And to date, we've seen considerable

21 progress. We've closed the three largest dumps on the

22 reservation and stopped access to those sites. We've

23 cleaned up or installed access controls to half of the 20

24 smaller dumps on the reservation already. EPA has issued

25 enforcement actions against five of the dump operators.

1 And this is very significant use of our enforcement  
2 authorities which we have rarely ever been used at a solid  
3 waste facility. In fact, we have used a new enforcement  
4 authority not done before in the United States at this  
5 reservation due to the priority of this effort for us.

6 Riverside County Sheriff has stopped trucks going  
7 into the reservation. They've done roadside stops. And  
8 the CHP has been doing flyovers of the reservation.  
9 California Air Resources Board is next week meeting with  
10 the tribe to install two hidden surveillance cameras on  
11 the reservation. And the tribe has constructed several  
12 billboards like those you saw in the slide and has  
13 participated in our overall very aggressive outreach  
14 campaign. It's really being heard between Palm Springs  
15 and the Salton Sea.

16 In the year that this collaborative has been in  
17 operation, it's been credited by the Riverside County  
18 Sheriff as making more progress in this one year than has  
19 been made in the past ten years in stopping dumping in  
20 Riverside County. So, again, I would like to congratulate  
21 the Board for your work on this reservation and the great  
22 difference you're making to the people of Riverside  
23 County.

24 I'd like to speak to the George AuClair cleanup.  
25 As Wes said, in January, EPA conducted on-seen removal at

1 the site to remove the imminent threat from the burning of  
2 grape stakes. There was ash from the burning of CCA grape  
3 stakes on the George AuClair property that created  
4 hazardous waste that could blow, and it was affecting the  
5 immediate residents near the property.

6           We have now completed that, removed the most  
7 imminent threat. Our SuperFund staff has also agreed to  
8 stay on the site through the duration of the Board cleanup  
9 to give legal access to the sheriff to keep -- there have  
10 been squatters on the site, and we need to keep the  
11 squatters off during your cleanup. And the EPA's continued  
12 presence on the site will give you legal access to do  
13 that.

14           Completion of your clean up at this site will get  
15 as close to the point of allowing the Bureau of Indian  
16 Affairs to lease the site for productive use as the  
17 surrounding land is leased which will prevent further  
18 misuse of the land.

19           In sum, I'd like to thank the Board for your  
20 contributions to the site on the reservation and invite  
21 you to attend our March 20th public progress report. As  
22 you know, August 20th, we provide a public event at the  
23 reservation. This is a little bit lower-key event. It's  
24 a public progress report. And then we also anticipate  
25 another meeting on the reservation, a public meeting, next

1 October. And we'd like to invite you to attend that as  
2 well.

3 I'd also like to speak in favor of the cleanup of  
4 the Wiyot Reservation. Indian Island is actually a very  
5 important area for the Wiyot people. It was the site of a  
6 very infamous event in the late 1800s. It was a massacre  
7 of Indian people for about 100 years. Well over 100  
8 years. The tribe worked to regain control of the site of  
9 the island and has done so seven years ago. And in those  
10 seven years, they've been working with others to clean up  
11 the site. There have been quite a bit of misuse of the  
12 land.

13 In those seven years, they've received over \$1.6  
14 million in funding due to their hard work from private  
15 contributors, the Coastal Conservancy, the National Park  
16 Service, EPA's Brownsfields Program, and U.S. Fish and  
17 Wildlife Service. That plus thousands of hours of  
18 community labor have made a big difference there. And the  
19 work that Wes described is still needed. It's work they  
20 can't complete without your assistance.

21 Again, this demonstrates your partnership in  
22 working with other agencies and with tribes in California  
23 to make a huge difference. I would like to thank you for  
24 your consideration of this effort, and I'd be happy to  
25 answer any questions that you may have.

1           CHAIRPERSON MULÉ: Great summary. Thank you,

2 Clancy. I appreciate that.

3           Board Member Chesbro.

4           BOARD MEMBER CHESBRO: Well, I don't have a

5 specific question. Well, I want to echo the description

6 of the Indian Island project. The staff did a good job of

7 touching on some of the significance, but I wanted to fill

8 in a little bit more. And some of it was filled in by the

9 gentleman from U.S. EPA.

10           But this has a very important historic and

11 cultural significance in addition to the environmental

12 benefit, which the Board normally is responsible for. It

13 was the site of one of California's great tragedies in

14 terms of the dominant society's genocide against Native

15 Americans in this state. Amazingly, survivors of that

16 tribe have regrouped and grown and prospered and have done

17 I think quite well, relatively speaking, and are very

18 active participants. The tribe is a very active

19 participant in Humboldt County economically and

20 politically.

21           What's really unique I think -- and I've been

22 personally part of this -- is that they have appealed to

23 the rest of the community to join them in partnership in

24 restoring this island both for their own ceremonial

25 purposes because it was the site of their most important

1 annual ceremony. That's actually what was going on at the  
2 time of the massacre. But also to give the community a  
3 chance to be part of that healing by participating in the  
4 restoration. So it's a great partnership both between the  
5 local governments, the city of Eureka particularly, and  
6 also State agencies, the Coastal Conservancy that's  
7 involved in funding restoration studies and restoration  
8 work. And it's great to have the Board participating in  
9 this process, because I think the tribe has offered the  
10 community and the people and the state of California an  
11 opportunity to really do some restorative justice  
12 literally by helping to restore the cultural, historic,  
13 and environmental attributes of this island.

14           And I'm pleased as one Board member, not as a  
15 Committee member. I'll have to wait until next week to  
16 get my chance to vote for it. But as one Board member to  
17 be able to lend my support to this. It's a very exciting  
18 project.

19           I'm going to be up there this Friday presenting  
20 one of our WRAP awards and have offered to Board members  
21 and advisors -- I understand everybody is busy and it's a  
22 big state and it's hard to get to Eureka. We're planning  
23 tentatively, as the details haven't been worked out, a  
24 visit to the island. So anybody who can come or who wants  
25 to send along an advisor to get a chance to see it

1 firsthand and perhaps talk with a representative of the  
2 tribe, we certainly welcome that. Thank you.

3 CHAIRPERSON MULÉ: Thank you, Member Chesbro.  
4 That is quite an education that I just got on that site.  
5 And, you know, I had read it in the item, but you really  
6 expanded on that. Thank you for the invitation.

7 Any other questions or comments, Board Member  
8 Danzinger?

9 COMMITTEE MEMBER DANZINGER: Well, first, thanks  
10 for those comments. Because what I knew was what I read  
11 in the item. And I thought this was a good deal even  
12 without all of those benefits. But with it, I think this  
13 is great. I'm very happy and proud to be a part of this.  
14 So I'm very supportive of that.

15 On the AuClair, that is a mess. And, I mean,  
16 that photo earlier I was trying to look for Kurt Russell  
17 in the shot, because I thought it was a movie still from  
18 Escape from New York.

19 Educate me, Clancy, on this. I'm trying to  
20 figure out this whole allotted land issue. Because, you  
21 know, I'd like to think this question I'm asking here is  
22 rendered obsolete, because it's not going to happen again.  
23 But how this happened, you know. I mean, how was he able  
24 to do this? Because I know that your organization has  
25 determined that it's not a tribal facility, that the tribe

1 is not a priority or non-proprietary party to it all or an  
2 interest in it. And yet, he gets this land, this  
3 allotment of land on the reservation and is able to  
4 apparently for years, you know, conduct this illegal  
5 dumping operation. How does he get the allotment? How  
6 does somebody get the allotment? Because I mentioned  
7 earlier or somebody mentioned earlier that maybe BIA and  
8 U.S. EPA working together on reassessing the rules or the  
9 guidelines that govern allotments, you know, how allottees  
10 are granted and, you know, what rules they have to follow.  
11 How does that happen and how does that play into this?

12 MR. TENLEY: Thank you for asking that. That is  
13 a very basic question, a very sensible question. When you  
14 look at this land when you go down and visit the site, you  
15 say, how can this happen? And I think what it is it's a  
16 legacy of the allotment system. The allotment system  
17 started in the mid 20th century in the United States where  
18 the United States government decided to take and provide  
19 land to tribal members to try to assimilate them into the  
20 U.S. population as a whole, as farmers. Give everybody  
21 100 acres and let them farm.

22 The allotment system is widely considered to be a  
23 failure. A lot of the land was lost throughout the years.  
24 And in addition, it became fractionated. As people have  
25 children from generation to generation, you no longer have



1 one person in control of a property. You may have dozens  
2 or potentially hundreds of people in control of a  
3 property, and many of the people don't reside on the  
4 property. So the ability of the allotment owner to retain  
5 productive use and control of allotments is greatly  
6 diminished and lost.

7           It has exceeded I believe the ability of the  
8 Bureau of Indian Affairs and the tribes that are involved  
9 to completely take care of each one of those allotments  
10 across the United States. This is not just in California.  
11 There's allotments all over the U.S. The Torres Martinez  
12 tribe itself only got a constitution in the late '80s and  
13 has begun a system of government and codes and ordinances  
14 to protect themselves from this type of activity in last  
15 few years with the assistance of EPA and the environmental  
16 grants.

17           So it has been a very difficult and challenging  
18 system. And until last year, the Bureau of Indian Affairs  
19 was attempting to work alone with the tribe or EPA would  
20 work alone with the tribe, and that wasn't working. And  
21 that's what created this mess. And what has worked since  
22 then is this partnership with 25 agencies where we're all  
23 coming together and putting all the resources we can  
24 possibly come to bear on a situation.

25           So you're quite correct. It is a failure, the

1 previous system. But we feel very strongly that the work  
2 we have in progress now with the partnership of the Board  
3 is going to address that.

4 CHAIRPERSON MULÉ: I know that we'll -- I guess  
5 we will pursue some degree of cost recovery from AuClair.  
6 Is there other action being taken against AuClair on the  
7 part of like BIA or EPA or --

8 MR. TENLEY: We have an enforcement action  
9 against George AuClair through EPA both through CERCLA and  
10 our RCRA Program, our hazardous waste program. And we, of  
11 course, will follow any recovery of costs and penalties  
12 that we possibly can. But there may be issues with  
13 resources that are available. But we will be in there too  
14 for quite a while.

15 COMMITTEE MEMBER DANZINGER: This guy is a  
16 villain. Thank you.

17 CHAIRPERSON MULÉ: Again, Clancy, thank you for  
18 being here.

19 I had the opportunity to attend the October 20th  
20 collaborative meeting. And I can share the success of the  
21 collaborative in terms of getting federal, State, and  
22 local agencies working together to address this issue. We  
23 had Riverside County Supervisors there. We had the  
24 sheriff's department, the fire department, everybody, the  
25 Waste Board. At the State level, DTSC, U.S. EPA was

1 there. We're really trying to address this on a  
2 comprehensive basis. Because as Clancy had mentioned, if  
3 one agency tries to address it, we're just not being  
4 effective. So everybody working together I really think  
5 that we're finally addressing the significant issue of  
6 illegal dumping in Riverside County, which I know very  
7 well. So thank you again for being here. Really  
8 appreciate it.

9 Any other questions, comments? Do I have a  
10 motion?

11 COMMITTEE MEMBER DANZINGER: Yes. I'll move  
12 Resolution 2007-70.

13 CHAIRPERSON MULÉ: I will second that. And  
14 Donnell, would you please call the roll?

15 EXECUTIVE ASSISTANT DUCLO: Member Danzinger?

16 COMMITTEE MEMBER DANZINGER: Aye.

17 EXECUTIVE ASSISTANT DUCLO: Chair Mulé?

18 CHAIRPERSON MULÉ: Aye.

19 We'll put that item on fiscal consent as well.

20 Thank you again, appreciate it. Thanks, Wes.

21 DEPUTY DIRECTOR LEVENSON: Madam Chair, if I can  
22 follow up on that item. Just in terms of timing for those  
23 projects, since we're working on the Ibanez project, the  
24 Torres Martinez, and that might take another five weeks or  
25 so, once that's completed, we would then mobilize for the

1 cleanup of the AuClair site down there, timing it to be  
2 100 days out probably.

3 With the Wiyot tribe, Wes anticipates it will  
4 take a couple of months. We still have some local  
5 permitting issues too get through before we're able to  
6 mobilize. So hopefully we'll have that completed sometime  
7 this summer. But that time line is a little less certain.

8 BOARD MEMBER CHESBRO: Madam Chair, even though I  
9 think it's logical for it to be on consent, I would  
10 encourage the Executive Director in his report to maybe  
11 mention it. And I'd like to have the chance very briefly  
12 at the Board meeting to let the Board members know the  
13 significance that I talked about.

14 CHAIRPERSON MULÉ: I would appreciate you sharing  
15 that information.

16 BOARD MEMBER CHESBRO: I don't think we need to  
17 have a full discussion on it. But I think the Board  
18 members would appreciate to know what they've been given  
19 the opportunity to be part of.

20 CHAIRPERSON MULÉ: I agree. And because it is on  
21 fiscal consent, we will have a brief presentation. But  
22 again, I agree with you, Member Chesbro.

23 BOARD MEMBER CHESBRO: If there will be a brief  
24 presentation, that satisfies my concern.

25 CHAIRPERSON MULÉ: But I would welcome the

1 opportunity for you to share your comments with the rest  
2 of the Board. So thank you very much.

3 Okay. Howard, our next item is Committee Item H.

4 DEPUTY DIRECTOR LEVENSON: Thank you. This is  
5 the last of our cleanup items. This is Consideration of  
6 the Grant Awards for the Farm and Ranch Solid Waste  
7 Cleanup and Abatement Grant Program. That will be  
8 presented by Carla Repucci.

9 MS. REPUCCI: Good morning. Item H is for the  
10 Consideration of three Applications for Farm and Ranch  
11 Solid Waste Cleanup and Abatement Grants. The amount  
12 requested in these applications being brought before you  
13 today is \$210,566 and represent the third award of this  
14 fiscal year.

15 The Farm and Ranch Grant Program began in 1999  
16 and provides up to one million dollars each year to  
17 federally-recognized tribes, resource conservation  
18 districts, and local governments to clean up illegal  
19 disposal sites on farm and ranch property. Applicants may  
20 request up to \$50,000 per site and 200,000 per fiscal  
21 year. There is \$693,024 remaining in the fund for this  
22 fiscal year.

23 Three applications were received this quarter  
24 requesting the clean up of ten sites. The applications  
25 were reviewed for eligibility, scored, and all ten sites

1 are being recommended for approval today. Approval of  
2 these applications as recommended would leave \$482,458 in  
3 the fund. The sites being requested for clean up are in  
4 the counties of San Diego, Yolo, and Solano.

5 Removal of the waste will restore the properties  
6 back to their natural state and remove the threat to  
7 public health and safety and the environment. Each  
8 applicant indicated efforts to prevent waste from being  
9 redeposited. The efforts include fencing, earthen berms,  
10 hedge rows, gates, the posting of signs, and increased  
11 surveillance.

12 Agenda Item H is for the consideration of three  
13 grant applications for Farm and Ranch Cleanup and  
14 Abatement Grants. Each application meets the eligibility  
15 requirement set forth by the statute. Therefore, the staff  
16 recommends the Board adopt Resolution 2007-71 authorizing  
17 the award of up to \$210,566 for the grant applications  
18 from the Solano and Dixon Resource Conservation Districts  
19 and the county of San Diego and directing staff to develop  
20 and institute grant agreements. I would be happy to  
21 answer any questions.

22 CHAIRPERSON MULÉ: Thank you, Carla.

23 Any questions for Carla?

24 COMMITTEE MEMBER DANZINGER: No. You know, on  
25 the Dixon one, this reads sort of like that one from the

1 last item. I was curious about it was fenced and gated in  
2 2004. So this is just to clean up what was there  
3 beforehand because there's been no illegal dumping since.  
4 It's no longer vulnerable as an illegal dumping site?

5 MS. REPUCCI: Correct. It was an historic dump  
6 site, so it's been there for many, many years.

7 CHAIRPERSON MULÉ: Okay. Do I have a motion?

8 COMMITTEE MEMBER DANZINGER: I move Resolution  
9 2007-71.

10 CHAIRPERSON MULÉ: Second.

11 Donnell, please call the roll.

12 EXECUTIVE ASSISTANT DUCLO: Member Danzinger?

13 COMMITTEE MEMBER DANZINGER: Aye.

14 EXECUTIVE ASSISTANT DUCLO: Chair Mulé?

15 CHAIRPERSON MULÉ: Aye.

16 We'll put that one on fiscal consent.

17 I think what we're going to do is take a  
18 five-minute break and then resume with our final two  
19 items. Thank you.

20 (Thereupon a recess was taken.)

21 CHAIRPERSON MULÉ: Good morning. Let's finish up  
22 here with our last two items. Howard, we have Committee  
23 Item I.

24 DEPUTY DIRECTOR LEVENSON: This is a Discussion  
25 and Request for Rulemaking Direction to Notice for a

1 45-Day Comment Period Proposed Regulations on Postclosure  
2 Maintenance and Financial Assurance Demonstrations for  
3 Landfills.

4           This first few items we ran the table and I have  
5 been pretty successful in not having to say much, but I  
6 thought I would introduce this item. Hopefully we'll have  
7 an interesting discussion on this one.

8           (Thereupon an overhead presentation was  
9 presented as follows.)

10           DEPUTY DIRECTOR LEVENSON: The purpose of this  
11 item -- and before I get going, to my right is Richard  
12 Castle who will make the main presentation, and Garth  
13 Adams. I want to thank both these gentlemen, along with  
14 Mike Wochnick and Scott Walker and Steve Levine and others  
15 who have helped on this endeavor.

16           The purpose of this item is to request the  
17 Committee's direction to implement a rulemaking on a suite  
18 of issues related to cost estimates for postclosure  
19 maintenance, financial assurance mechanisms for  
20 postclosure maintenance, and corrective action plans.  
21 Specifically, how can the Board improve its existing cost  
22 estimating and financial assurance regulations based on  
23 direction from AB 2296, and also based on experiences that  
24 we've had with the BKK Class III Landfill and other  
25 situations in the past. Also, whether and how the Board



1 should require financial assurance demonstrations for  
2 postclosure maintenance beyond 30 years, the first 30  
3 years of postclosure maintenance, and additionally require  
4 plans and financial assurances for corrective action plans  
5 actions at landfills.

6 This item is based on prior Board direction that  
7 we received in July of 2006, subsequent legislation which  
8 is AB 2296 enacted and signed in September of 2006, and  
9 stakeholder comments at informal workshops.

10 As you know, the issue is what financial  
11 assurances will be required for more than 30 years of  
12 postclosure maintenance and how to address corrective  
13 actions that are not now covered by Board regulations has  
14 received much attention. We've as a staff and the Board  
15 at the Committee and Board level have had workshops and  
16 working group meetings on this since late 2003. And I do  
17 want to acknowledge all those folks that I mentioned along  
18 with Bernie as well.

19 Nationally, this is an item that's been discussed  
20 by U.S. EPA for years. It's been a topic at some of the  
21 solid waste conferences that involve State and territorial  
22 managers. The Legislative Analyst's Office issued a  
23 report in April of 2006 on this topic. And then in the  
24 fiscal year 2006-2007 Budget Act, we were requested to do  
25 a supplemental budget report on what actions the Board was

1 taking in this area, which we submitted in January.

2 As I mentioned, we had Board direction in July of  
3 last year. And then AB 2296 was signed last fall. So  
4 there's been a lot of focus on this issue of what happens  
5 after 30 years and what should be encompassed in any kind  
6 of rulemaking or statutory look at that issue.

7 But at the same time, and independent of this  
8 whole long-term issue, over the last few years we've  
9 experienced a number of problems or issues related to our  
10 existing financial assurance and cost estimating  
11 requirements for closure and postclosure maintenance.  
12 Some of these are related to rapidly increasing costs of  
13 materials and of construction for closure and postclosure  
14 maintenance, such that approved cost estimates and the  
15 associated financial assurance demonstrations in some  
16 cases have become inadequate for what is actually required  
17 at a site.

18 At the same time, we've been trying to get  
19 certified closure at the BKK Landfill. And although  
20 that's not quite closed, so it's a little bit of a  
21 different beast, we've learned a lot of lessons there  
22 about closure and postclosure maintenance plans and  
23 existing financial assurance demonstrations for the first  
24 30 years of postclosure maintenance. So there's a suite  
25 of issues on the table here.

1           Now I'd like to reflect on what happened in July  
2 and then what happened in the fall with AB 2296. In July,  
3 the Committee directed staff to initiate a rulemaking that  
4 would clarify that financial assurance mechanisms  
5 requirements for postclosure maintenance are for more than  
6 30 years. We were asked to address the suite of cost  
7 estimate issues and to draft provisions that would require  
8 corrective action plans.

9           The Committee also directed us to begin a study  
10 of long-term threats and financial assurance mechanisms  
11 that would deal with longer term postclosure maintenance  
12 and with corrective actions at landfills. This would  
13 include but not be limited to options such as a statewide  
14 pooled fund and variations on that or insurance coverage  
15 based on potential corrective action risk posed by  
16 individual landfills.

17           This direction in July deferred the actual  
18 requirement for financial assurance demonstrations for  
19 corrective actions until after the results of that study.  
20 Staff developed an informal draft of this rulemaking and  
21 held a workshop with stakeholders in November, and we  
22 received numerous comments on that. At the same time, the  
23 Legislature was discussing AB 2296, specifically the issue  
24 of financial assurance mechanisms for greater than 30  
25 years of postclosure maintenance and of corrective action

1 plan and financial assurance requirements.

2 The Governor signed AB 2296, author,  
3 Assemblywoman Montaez, in September, and AB 2296 would  
4 require the Board to do three things:

5 One is to adopt regulations by January 1st of  
6 2008 that address existing cost estimate issues. Those  
7 would include cost overruns, providing for reasonable  
8 contingencies, and basing estimates on reasonably  
9 foreseeable costs the State would have to incur if we took  
10 over the responsibility for those activities.

11 Secondly, to conduct a study by January 1st,  
12 2008, much the same as the study the Board directed us to  
13 pursue. That would define conditions that potentially  
14 affect landfills in order to identify potential long-term  
15 threats and to address financial assurance mechanisms that  
16 would protect the State from long-term postclosure  
17 maintenance or corrective action costs.

18 And thirdly, to adopt regulations and develop  
19 recommendations for needed legislation to implement the  
20 findings of that study by July 1st of 2009.

21 --o0o--

22 DEPUTY DIRECTOR LEVENSON: So AB 2296 differed  
23 from the Committee's July direction primarily in two ways.  
24 One is it addressed some but not all of the existing cost  
25 estimates issues that we have uncovered over the years.

1 But more importantly, it deferred the issues of financial  
2 assurance requirements for beyond 30 years and the  
3 corrective action plans from the first rulemaking instead  
4 deferred them to the second rulemaking, which is required  
5 to be completed by July of 2009.

6 Before I turn it over to Richard, just want to  
7 note that in September and November staff sought and  
8 received Board approval for the study on long-term threats  
9 and financial assurance mechanisms. The Request for  
10 Proposals for that was released last month. They are due  
11 March 19th, and we anticipate coming back to the Committee  
12 with the award of that contract hopefully in April.

13 So with that, I'll turn it over to Richard  
14 Castle.

15 CHAIRPERSON MULÉ: We have a question.

16 BOARD MEMBER CHESBRO: I voted on it, so I should  
17 know the answer to this. But did AB 2296 explicitly  
18 prohibit the Board -- I'm thinking about the two options  
19 you put before the Committee and the Board. Did it  
20 explicitly prohibit the Board from exercising Option 2 and  
21 going ahead with regulations on financial assurance, or  
22 did it just lay out another direction in terms of the  
23 study?

24 DEPUTY DIRECTOR LEVENSON: No. You're correct.  
25 It did not specifically prohibit us. And in fact, it

1 required us to do two rulemakings; one by January of 2008,  
2 which is what this item is really about, is what should  
3 that rulemaking encompass. That would cover at a minimum  
4 some of the cost estimate issues, prevailing wages and  
5 contingencies and other issues like that. Then to go  
6 ahead and conduct the study, come back with the results of  
7 that, and do a second rulemaking later.

8 BOARD MEMBER CHESBRO: But on the financial  
9 assurance.

10 DEPUTY DIRECTOR LEVENSON: Financial assurance  
11 mechanisms for longer-term postclosure maintenance and  
12 corrective action.

13 BOARD MEMBER CHESBRO: That's the part I'm  
14 specifically asking about relative to the legislation  
15 prohibited the Board from proceeding with that portion  
16 with it until the study.

17 DEPUTY DIRECTOR LEVENSON: My read of this -- and  
18 perhaps we need to turn to Legal. My read of this did not  
19 specifically prohibit us from pursuing those. But there  
20 were provisions in the earlier drafts of the legislation  
21 that spoke to those issues that then were deleted in the  
22 final version that was enacted and signed by the Governor.

23 BOARD MEMBER CHESBRO: Thank you.

24 CHAIRPERSON MULÉ: Continue, Richard.

25 --o0o--

1           MR. CASTLE: Good morning. My name is Richard  
2 Castle, and I'm in the Financial Assurances Section at the  
3 Board. And we've seen a lot of this in the past, but we  
4 want to make sure everybody has a good picture of where we  
5 are at today and why we're asking to go forward with the  
6 regulation package.

7           In general, I'd like to make the statement again  
8 that the operators are responsible for postclosure  
9 maintenance until there's no longer a threat at the site.  
10 Nobody's had discussion against that in the meetings. The  
11 question is about the money. And the regulations  
12 specifically only require at this time financial  
13 demonstration for 30 years of postclosure maintenance.

14           We know that with continued maintenance at the  
15 site though that it's not going to just end at the end of  
16 30 years. When we first started this process, we looked  
17 in the inventory of how many facilities we're talking  
18 about. We have 282 landfills that are under the financial  
19 assurances regulatory authority of the Board.

20                               --o0o--

21           MR. CASTLE: Of those 282, there's 116 landfills  
22 that are already in postclosure maintenance. In looking  
23 at the costs, we laid out a model -- very basic model of  
24 what the current postclosure maintenance estimates are.  
25 And we came to a present value determination for a current

67

1 cost estimate. So we inflated the cost, but we also added  
2 in inflation to them. But we didn't consider any of those  
3 outlined costs that were beyond just what's in the plan  
4 for the routine maintenance of the facility.

5           With just the routine maintenance of the facility  
6 though, what we have with those 116 landfills already in  
7 postclosure maintenance is by the year 2021, the first  
8 landfill that closed under the Board's regulations will  
9 have already exhausted its required financial assurance  
10 demonstration. By the year 2040, all 116 currently closed  
11 facilities will have exhausted their financial assurance  
12 demonstration.

13           What that gets us to is that those 116 sites by  
14 the year 2040 will have a \$150 million exposure that is  
15 not assured to the State. What's significant in that  
16 number also is 85 percent of those sites are publicly  
17 owned, publicly operated facilities. By the year 2054,  
18 the unfunded postclosure maintenance costs for all these  
19 sites is more than 600 million. And at this point, we've  
20 closed a few more privately-owned facilities. And 77  
21 percent of the costs are still going to be from the  
22 public.

23 --o0o--

24 MR. CASTLE: A nice little graph we used way back  
25 when when we started this process is putting those numbers



1 that we just talked about here. And the red is what is  
2 assured. The blue is those continuing expenses that are  
3 not assured to the State.

4 --o0o--

5 MR. CASTLE: The unfunded costs only represent  
6 regular and expected annual postclosure costs. What we're  
7 not seeing and we would have a difficult time putting into  
8 a plan like this would be the earthquakes, floods or  
9 flooding rains. These aren't representative in these  
10 costs. And we're expecting that that would be considered  
11 a corrective action anyway. So we're only talking when  
12 we're talking these numbers right here about normal  
13 postclosure maintenance expenses. Also not represented  
14 are the repair and replacement costs for the major  
15 environmental control systems at the site. So if there's  
16 a -- equipment wears out eventually. And those extended  
17 long-term costs are not represented in the cost estimates.

18 --o0o--

19 MR. CASTLE: The postclosure maintenance cost  
20 estimates for items that occurred less than annually  
21 should be pro rated to an annual cost. In this way, we  
22 can get an average what the closure branch likes to call  
23 an annualized cost of the estimate so we can multiply that  
24 by our current multiplier of 30 so that we have a  
25 representation not of the process of making the operator

1 go through a postclosure maintenance plan of specifically  
2 identifying in year three I'm going to do this and in year  
3 seven I'm going to do that and add them up. But to have  
4 those items in there, know they have a life expectancy  
5 that's greater than a year, but then average them back to  
6 a year. And the cost estimates also should include any  
7 maintenance and replacement for the entire postclosure  
8 maintenance period.

9           This entire postclosure maintenance period is not  
10 30 years. It's until there's no longer a threat. So this  
11 is going to be -- could be a difficult item for the  
12 operators to calculate. But again, there's a life  
13 expectancy of equipment at a facility. And those can be  
14 used in making this calculation.

15           Cost for closure/postclosure should be based on  
16 third-party cost estimates. This is represented in -- so  
17 after the State has to take over the site and the  
18 maintenance of the facility, we are capable of hiring a  
19 contractor to go out and take care of that. Specifically  
20 identified here is the prevailing wages, and this is an  
21 item that's specifically listed also in AB 2296. So  
22 that's where we are dovetailing very well obviously  
23 working at the same time.

24           Postclosure cost estimates should include a  
25 contingency similar to the current closure plan cost

1 estimates. AB 2296 tells us to get a reasonable  
2 contingency, the Board has used 20 percent as a  
3 contingency for closure throughout the history of the  
4 regulations for financial assurances. Staff at this time  
5 are proposing that that same 20 percent be the reasonable  
6 contingency for the postclosure maintenance cost  
7 estimates.

8           We've recently had a number of facilities that  
9 the approved costs when they get ready to close are  
10 significantly less than what the actual bids are coming in  
11 for the operator to close the sites. We're concerned that  
12 the same process is going to -- or the same failure of the  
13 estimate is going to happen in the postclosure maintenance  
14 in performing not necessarily the very mundane routine  
15 maintenance, but they begin to replace equipment that was  
16 estimated while the facility was operating. And now  
17 they're in postclosure maintenance, maybe 15 years into  
18 the maintenance, and they have to replace some items  
19 without having a reasonable contingency on that cost  
20 estimate that was funded for during the operation. We may  
21 be significantly short for an assurance for the  
22 replacement cost for that item.

23                               --o0o--

24           MR. CASTLE: As far as the BKK issues that are  
25 represented in the draft regulation process, we found

1 through the process with the continued closure of BKK  
2 Landfill that we need some stronger oversight on the  
3 Board's part in the process of closure and postclosure  
4 maintenance plan than the submittal and looking at them a  
5 little bit closer to make sure all the pieces are there  
6 and all the costs are covered.

7           We need to clarify some assurance issues.

8 Assurance has become popular with a few operators and is a  
9 financial arrangement. And the problem the Board has  
10 is -- and specifically with the BKK facility is that the  
11 insurance companies are there to make money, not to save  
12 the world. The Board's role is to make sure there's an  
13 assurance that the process will continue. And we get into  
14 the negotiation process with an insurance company when it  
15 becomes time to collect the money for that closure process  
16 or the postclosure maintenance process. And assurance is  
17 specifically a different financial demonstration than the  
18 others, because the operators are using that money  
19 directly. It's not just an assurance to the Board. The  
20 insurance policy is set up so that the operator can draw  
21 the money from that insurance company and perform the  
22 closure and perform postclosure maintenance. So there's  
23 some items that came up that we need to strengthen. We've  
24 got that in the -- hopefully, we have that solved this  
25 time in this regulation package.

1           And we already update costs for postclosure  
2 maintenance on a periodic basis. The regs clarify that a  
3 little bit more that it's going to be updated with  
4 recalculations of the estimates, not just inflation  
5 estimates. The inflation is the in-between the submittals  
6 of the plans.

7                               --o0o--

8           MR. CASTLE: I don't want to read through this  
9 entire thing, but that's the listing of the workshops that  
10 we've had since November of 2003 and a brief listing of  
11 the comments, the process that we've been going through,  
12 the postclosure maintenance. We've discussed how it's  
13 currently implemented and where we envision this process  
14 going. And that the biggest one is that the current  
15 financial demonstrations that are provided to the State  
16 again are only for the 30-year demonstration.

17           If we can remember back, we have 85 percent of  
18 the facilities that are going to be government operated  
19 closed sites that are going to be out of postclosure  
20 maintenance financial demonstrations. The majority of the  
21 public operators are providing a pledge of revenue  
22 agreement when they've identified an annual stream of  
23 money that will take care of their expenses.

24           If we were to amend the regulations to say that  
25 the financial assurance demonstration has to survive

1 throughout postclosure maintenance, we can work with them  
2 to make sure that they amend their agreements to survive  
3 beyond 30 years. It's not a 30-year pot of money. It's  
4 an annual source of money that right now is only required  
5 to be there for 30 years.

6 That's just one example of a relatively easy fix  
7 for all of this.

8 --o0o--

9 MR. CASTLE: As Howard identified during his  
10 presentation during July, the Board directed staff to  
11 initiate the rulemaking, clarified the financial  
12 requirements for postclosure are for more than 30 years,  
13 addressed cost estimate issues and required corrective  
14 action plans, and to begin the process of the study.

15 And we have done all that. And when we went to  
16 the workshop in November that we set up so we can discuss  
17 these draft regulations, we did receive a number of  
18 comments at the workshop because in the interim AB 2296  
19 had been signed. So there was a direction from AB 2296  
20 that was somewhat in line with what we were already doing,  
21 but there were other issues within AB 2296 that were not  
22 addressed that we were addressing in the regulations. And  
23 that's why we have a couple of options for you today to  
24 make sure that we get your direction on how we want to  
25 continue at this point.

1                               --o0o--

2               MR. CASTLE: The key issues that we have are that  
3 the cost estimates need to be improved. We have issues  
4 that have arised because of the BKK situation as an  
5 example, but they are relevant throughout the state with  
6 how financial demonstrations are utilized that we can  
7 extend financial assurances for postclosure maintenance  
8 beyond 30 years with relatively minor amendments to the  
9 regulations, and then using existing financial mechanisms  
10 for that time span beyond 30 years. And that we have an  
11 option in the regulations for corrective action plans, not  
12 financial assurance demonstrations.

13               And if I can take just a moment longer, on the  
14 financial demonstrations, during the workshop we had used  
15 a placeholder of how to calculate a better trust fund.  
16 For example, and we used 50 years as the calculator  
17 instead of 30. Before the workshop, had some time to run  
18 the numbers a little bit more. And without compounding  
19 the interest earned on the funds, we came to a conclusion  
20 that if you had about 41 years' worth of money, then you  
21 would have enough money almost for the numbers showed for  
22 the workshop would be essentially a perpetual fund. The  
23 operator could siphon from the interest only and never  
24 touch the principle and be able to cover those ongoing  
25 postclosure maintenance costs.

1           During the workshop, the discussion about that  
2   was about if we were compounding that interest, we would  
3   probably see a significant improvement on those returns.  
4   And since that time, we have done that. And we've  
5   determined that we were to obtain a 30-year estimate, as  
6   we are now, hopefully even more improved 30-year estimate,  
7   but a 30-year estimate, with a 20 percent contingency on  
8   that, just like we do with the cost estimates for closure,  
9   that under the current estimates, assuming all they do is  
10  inflate, if the State were to obtain that money due to the  
11  failure of the operator and we invested it in the State's  
12  surplus money investment fund, which is where the Board  
13  invests the money when we do obtain money from an  
14  operator, that the interest earned -- the average interest  
15  over the last 15 years of that fund with our average  
16  inflation over the last 15 years using those parameters  
17  and compounding it on an annual -- a monthly basis, we've  
18  determined that that 30-year estimate would last for in  
19  excess of 72 years, allowing the operator to -- that's a  
20  pretty good extension of time just for the 20 percent  
21  additional estimate. AB 2296 supports the contingency.  
22  We think that's definitely a good start.

23           BOARD MEMBER CHESBRO: Assuming the operator  
24  didn't spend any of it.

25           MR. CASTLE: For postclosure maintenance, the



1 operator is only allowed to use what we disburse from  
2 those funds.

3 BOARD MEMBER CHESBRO: I didn't mean go spend it  
4 on a party or something. I just meant, you know, there  
5 were needs that began to draw the fund down.

6 MR. CASTLE: No. This is with their annual  
7 expenses drawn from the fund, the fund would last for 72  
8 years.

9 BOARD MEMBER CHESBRO: So that accounts for an  
10 estimate of what they would be drawing down?

11 MR. CASTLE: Yeah. What it does not account for  
12 is if they have a major event, which is a corrective  
13 action event. I didn't bring a slide for that because the  
14 chart is way too big to put up on the screen.

15 --o0o--

16 MR. CASTLE: So Option 1. I think that's about  
17 it. Option 1 is to clarify the closure/postclosure  
18 maintenance and corrective cost estimates must be based on  
19 costs the State may incur and address the need for  
20 contingencies on all cost estimates; clarify the financial  
21 demonstrations for postclosure maintenance; must assure  
22 funds are fully available upon request of the Board;  
23 clarify the financial assurance requirements for  
24 postclosure maintain extend beyond 30 years; extend the  
25 existing financial mechanisms to assure greater than 30

1 years of postclosure maintenance; and requires known or  
2 reasonably foreseeable corrective action plans for all  
3 landfills under Board authority.

4 --o0o--

5 MR. CASTLE: Option 2 will clarify that closure  
6 and postclosure cost estimates must be based on costs the  
7 State may incur and address the need for contingencies on  
8 all those cost estimates and clarify that financial  
9 demonstrations for postclosure maintenance must assure  
10 funds are fully available upon request of the Board. And  
11 that statement is basically due to the insurance problems  
12 that we had in collecting insurance from or  
13 closure/postclosure activities.

14 That concludes my presentation. Obviously, we're  
15 all here for any questions. And I believe Howard has some  
16 more.

17 DEPUTY DIRECTOR LEVENSON: Madam Chair, obviously  
18 this is a very complicated issue. It involves a lot of  
19 jargon and considerations about closure and postclosure  
20 maintenance, which we currently require plans for, and  
21 cost estimates and financial assurances, but only up to 30  
22 years. The item covers corrective actions, which the  
23 Water Board has requirements for, but we currently do not.  
24 And what would be required for those in terms of plans and  
25 cost estimates, and ultimately after the study, financial

1 assurances for those.

2           So what you have before you is Option 1  
3 encompasses all of those various items: The cost estimate  
4 issues and the longer-term requirements for corrective  
5 action plans and for extending the financial assurance  
6 mechanisms.

7           Option 2 is a narrower sub-set just focused on  
8 the existing cost estimate and financial assurance  
9 mechanisms and providing improvements to those. So we're  
10 seeking your direction today and hopefully approval to go  
11 out for a 45-day comment period on one of those.

12           CHAIRPERSON MULÉ: Thank you, Howard.

13           We do have three speakers, so let's listen to  
14 them first and then I'll take questions. Our first  
15 speaker is Chuck Helget.

16           MR. HELGET: Chairman Mulé, members of the Board,  
17 I'm Chuck Helget representing Allied Waste. And we're  
18 here today to support the staff recommendation of Option 2  
19 be adopted by the Committee.

20           I personally was involved in the negotiations on  
21 AB 2296. And in my view, AB 2296 was intended to set a  
22 rational regulatory process in place that would move us  
23 past the rhetoric that oftentimes surrounds this issue and  
24 provide the Board with a rational basis on which -- a  
25 study, rational basis on which to make your decisions

1 about a regulatory package that will proceed following the  
2 study.

3 We believe that Option 2 is consistent with the  
4 intent of AB 2296 which requires that the Board adopt this  
5 year a set of regulations that deal solely with improving  
6 costs estimating procedures for closure and postclosure.

7 AB 2296 also calls for the Board to conduct a  
8 long-term risk evaluation study. We firmly believe that  
9 the Legislature intended the study to encompass broader  
10 considerations regarding the Board's regulation of  
11 closure/postclosure care, corrective action, and financial  
12 assurances. We strongly believe that it was the intent of  
13 the Legislature to defer substantive regulatory and  
14 legislative changes pertaining to these issues until after  
15 the completion of this study.

16 During the workshop, as sort of an add-on during  
17 the workshops on this topic that staff has conducted --  
18 and staff has done I think a remarkable job in organizing  
19 an extraordinarily complex topic. There's been a lot of  
20 give and take over the past couple of years on the topic.

21 The industry, SWIG, is the Solid Waste Industry  
22 Group, has provided a set of 19 or 20 additional comments  
23 that deal specifically with the regulations. And we sort  
24 of had somewhat of a moving target. You can expect that  
25 we will resubmit those regulations if the Board adopts

1 Option 2 and moves forward with a set of regulations that  
2 we have specific language to address. And those comments  
3 again have been submitted to the Board in writing and  
4 verbally, and we would ask they be considered as part of  
5 that process. And we look forward to working with staff  
6 on resolving what issues we might have remaining.

7 Thank you.

8 CHAIRPERSON MULÉ: Thank you.

9 Our next speaker is Bill Magavern.

10 MR. MAGAVERN: Thank you, Chair Mulé, Board  
11 Member Danzinger, Board Member Chesbro. Good afternoon.

12 By way of background, I participated in most of  
13 the workshops that the Board staff have held on this issue  
14 as well as last year sponsoring with former Board Member  
15 Peace AB 2296, the legislation we've been talking about.  
16 And we think that the Board staff have now been doing for  
17 many years very good work preparing for this. And now  
18 it's time to translate that work into actual safeguards  
19 that are going to protect the taxpayers and the health and  
20 safety of the state.

21 If we look at the three possible options, Option  
22 1 is the one that you will adopt if you want to move  
23 quickly to make sure that we don't have a situation where  
24 the State has to bail out a landfill operator because  
25 there's been a major event that goes beyond the financial

1 assurances that are currently posted by that landfill  
2 operator. This would cover all the contingencies and is  
3 in no way inconsistent with AB 2296.

4 Option 2 I think is the bare minimum required by  
5 the law. It would meet the first deadline set in the law  
6 to update the cost estimates during this year.

7 And Option 3, the do nothing option, would  
8 actually be in violation of the law. I think you could  
9 infer that from the staff presentation, but I just want to  
10 be very direct about it that, you know -- and I don't  
11 think you're seriously considering that. Glad to hear  
12 even my friend Mr. Helget is not suggesting that you do  
13 nothing at all here.

14 So we would say, you know, we certainly would  
15 urge you to move as aggressively as possible. If you  
16 choose the more limited route, it would be very important  
17 not to make any further weakening regulations, that the  
18 Option 2 already is a substantial retreat from what was  
19 proposed last year.

20 Thanks. I would be happy to take any questions.

21 CHAIRPERSON MULÉ: Thank you, Bill.

22 Our next speaker is George Larson.

23 MR. LARSON: Madam Chair, Board Member Danzinger,  
24 Senator, I'm here on behalf of Waste Management.

25 I won't repeat what Mr. Helget stated in his

1 presentation, but I want to concur with everything he says  
2 in the interest of time. I just feel very strongly that  
3 in order to have the basic tools to do the calculations  
4 that will be necessary during Phase 2 is quite contingent  
5 upon the analysis that the respondents to your RFP who are  
6 going to conduct this study will provide the information  
7 necessary and mechanisms to be accurate. Because I'm sure  
8 you don't want to have to retrace your steps at a later  
9 date during Phase 2.

10 So with that, I'll just support staff's  
11 recommendation for Option 2.

12 CHAIRPERSON MULÉ: Thank you.

13 Okay. That concludes our public speaking  
14 portion.

15 Any comments, questions?

16 Board Member Danzinger.

17 COMMITTEE MEMBER DANZINGER: I'll just say  
18 briefly, you know, it's a tad unfortunate that we have  
19 these two tracks that are happening right now with 2296  
20 and what we did in July, because I think it creates an  
21 artificial perception that we're thinking small on this  
22 issue. And I think nothing could be further from the  
23 truth. I think this organization has been at the tip of  
24 the spear of this issue nationally. I mean, as was  
25 discussed in the July Committee meeting and was reiterated

1 here today, U.S. EPA and other parties are trying to get  
2 their arms around this issue too. And they're admitting  
3 that there's no solution out there. We need to look at  
4 this issue.

5           We haven't needed political pressure to move this  
6 issue down the road. I know there are issues on both  
7 sides. We have been moving it down, and it's not a matter  
8 of wanting to go there or not wanting to go there. I  
9 think we made it clear in July when we, you know, laid out  
10 okay here's where we're going to go. I think we made it  
11 clear that we want to get our arms around all these issues  
12 up to and going beyond 30 years. There was also an  
13 acknowledgement that 2296 was in motion.

14           In a review of the July meeting, there are also a  
15 couple presumptions that were made in the July meeting  
16 among some folks that turned out to be wrong. There were  
17 presumptions that 2296 has this in it and this in it, and  
18 that just mirrors what we have in our rate package right  
19 now. Those things were subsequently taken out.

20           I think if there was something that was never  
21 contemplated, there's room to consider what was the  
22 intent. If something is in there and that was removed, I  
23 think that removes the capacity that you can talk about  
24 when this intent was. Because it was clearly intended at  
25 one time and it's not.



1           So I'll say the same thing I have said since  
2 before my confirmation, okay, when I had to be ten times  
3 more careful about this. I have to respect what's in the  
4 law. If there was something that was not in our direction  
5 in July but it turned out it was in 2296, I'm sure that  
6 one of the options today would not be to not do those  
7 elements of 2296 because we didn't consider it in our July  
8 direction and concurrence with the staff.

9           So I think we're going there, and we're going to  
10 get there. And I know I'm firmly committed to the  
11 deadlines that we have, not just the '08. But getting the  
12 study, seeing the wisdom in sort of getting all of these  
13 longer-term issues in a single study and a single  
14 rulemaking where we can have the collaborative process  
15 where everybody is addressing all those issues. Because I  
16 think there's an acknowledgement that all those issues,  
17 all those elements are going to have a co-exist in a  
18 single construct that's going to address all the issues  
19 and up to 30 years.

20           So I just have more of a comfort level with  
21 moving forward in compliance with 2296 moving along in the  
22 same track. And again, I'll reiterate the first point  
23 that I made. Please do not take this as a signal that  
24 we're thinking small on this issue or that we're  
25 backtracking from July. We're not backtracking from July.

1 We are in a time sense, you know -- I mean, we are in  
2 terms of when things are going to go into a rulemaking  
3 process. But we're still committed to this, and we're  
4 still going to move forward.

5 CHAIRPERSON MULÉ: Thank you.

6 Board Member Chesbro.

7 I just want to make a brief comment, because  
8 Board Member Danzinger, I'd like to just echo his  
9 comments. This is a complex issue. And I have attended  
10 most in not all of your workshops. I wasn't here in 2003,  
11 so I couldn't attend that workshop. And you're right,  
12 Howard. This is a very complex issue. And because it's a  
13 complex issue, we need to be very thoughtful about how we  
14 proceed down this path.

15 And I do know that in July when we were  
16 discussing the direction, there were several comments  
17 raised about what the outcome of 2296 might be if it does  
18 pass. Well, it did pass. It did get approved. And I  
19 think that lays out a path for us to follow, not that  
20 we're going to back off of any of these other issues. But  
21 I think if we're going to look at going beyond 30 years  
22 for a postclosure maintenance and some of these other  
23 issues, we need to adequately and thoroughly conduct the  
24 risk assessment which is what this study is going to do.

25 And so I think that if we move forward with

1 conducting this study and then proceeding on the first  
2 phase of the reg package, which is Option 2, we can move  
3 down that path and then move forward based on this study.  
4 That's going to tell us how to proceed with the second  
5 phase of the reg package.

6 So with that, I'd like to propose that staff move  
7 forward with Option 2, if that's okay with the rest of the  
8 Committee.

9 COMMITTEE MEMBER DANZINGER: I agree with you.

10 CHAIRPERSON MULÉ: Okay. This is just to give  
11 direction to proceed with Option 2.

12 And thank you, Richard, Garth, Mike, Bernie.  
13 I've seen all your work. You're doing a great job on  
14 this. Thank you. Really appreciate your effort.

15 Okay. I think that's it. And then we have one  
16 more item, Committee Item J.

17 ACTING DEPUTY DIRECTOR SMITH: Good afternoon,  
18 Chair Mulé and Committee Member Danzinger and Board Member  
19 Chesbro.

20 For the record, I'm John Smith, Acting Deputy  
21 Director for Waste Prevention and Market Development. I  
22 don't have any items for a Deputy Director report this  
23 morning, so we'll just proceed to the item.

24 The item is Item J, Committee Item J or Board  
25 Agenda Item Number 9, Request for Direction Regarding

1 Revisions to the Rigid Plastic Packaging Container  
2 Regulation. Our presenter for today is Mike Leao,  
3 Supervisor for the Board's Plastics Recycling Technology  
4 Section. Bill Orr will also present. Mike.

5 (Thereupon an overhead presentation was  
6 presented as follows.)

7 PLASTICS RECYCLING TECHNOLOGY SECTION SUPERVISOR

8 LEAO: Thank you, John. Good morning, Madam Chair and  
9 Board Members Danzinger and Chesbro.

10 --o0o--

11 PLASTICS RECYCLING TECHNOLOGY SECTION SUPERVISOR

12 LEAO: The purpose of this item is also to seek direction  
13 on rulemaking, to develop proposed changes to the rigid  
14 plastic packaging container, or RPPC, regulations. And  
15 we're seeking direction on processes and concepts to be  
16 used in developing those changes.

17 --o0o--

18 PLASTICS RECYCLING TECHNOLOGY SECTION SUPERVISOR

19 LEAO: Before getting into the processes and concepts,  
20 first like to provide a little background information on  
21 why we need to do this rulemaking. First, the regulations  
22 were written prior to the Board having any experience with  
23 executing the program. This was back in the mid '90s.  
24 And since then, we've done several certifications. And we  
25 found that as a result of those certifications that they

1 do not always lend themselves to efficient application in  
2 real world situations, especially as the types and uses of  
3 plastic packaging has greatly increased.

4           Also the regulations still reflect obsolete  
5 provisions of the statute which are no longer effective.  
6 This leads to the regulations having dead weight and can  
7 also lead to confusion on the part of the regulated  
8 community.

9           Also there have been recent statutory changes in  
10 2005 and 2006. Senate Bills 733 and 1344 have added  
11 additional compliance options to the law. And those have  
12 not been addressed in regulation as of yet.

13           And also we find there's just a necessity for  
14 more clarity in the regulations. The wording is dense.  
15 The question and answer format is not the easiest to  
16 follow. We need more specific definitions, especially in  
17 regard to product manufacture and what a rigid plastic  
18 packaging container is. And in general, there's too much  
19 ambiguity.

20 --o0o--

21 PLASTICS RECYCLING TECHNOLOGY SECTION SUPERVISOR

22 LEAON: Regarding the process we're proposing to use, it's

23 a two-phase process where we'd begin with an informal

24 review and comment period. And what we're proposing to do

25 is to form an Advisory Committee that would consist of

1 representatives from regulators, product manufacturers,  
2 environmental groups, reprocessors, and industry  
3 associations. They would help us to develop the revised  
4 changes to the regulations which we would then release to  
5 the wider stakeholder group, conduct at least two  
6 workshops to get input from that wider stakeholder group,  
7 and then revise the regulations further based on that  
8 input, and bring the revised regulations back to the Board  
9 for consideration of approval to notice with Office of  
10 Administrative Law. At that point, that would initiate  
11 the formal review and comment period. And once that's  
12 initiated, we would have one year to complete the  
13 rulemaking.

14 --o0o--

15 PLASTICS RECYCLING TECHNOLOGY SECTION SUPERVISOR  
16 LEAON: Regarding proposed concepts to address in the  
17 rulemaking. As I mentioned earlier the statutory changes,  
18 we need to look at what additional regulatory change might  
19 be needed for those compliance options. Also container  
20 manufacturers are now subject to violation and penalties,  
21 and we need to look at that as well.

22 Also, we want to improve the overall organization  
23 and readability, moving away from the answer and question  
24 format. And just restructure the regulations to make them  
25 flow better and make it more easily understood.

1           Also, we would like to address some procedures  
2 for conducting certifications that were developed as part  
3 of a certification protocol approved by the Board at its  
4 December 2004 meeting. These include procedures for  
5 identifying companies, for notifying companies that they  
6 may be required to make individual certification to the  
7 Board, and then the actual process for selecting  
8 companies. We found that there was a lack of  
9 understanding and clarity about those processes both from  
10 the regulated community and also on the Board. And we  
11 feel that including those procedures in the regulations  
12 will help to remove that ambiguity.

13           An issue that has come up is an appeal process  
14 for container disputes. We have had situations where  
15 Board staff and the regulator product manufacturer are in  
16 disagreement about whether a particular package is a  
17 regulated RPPC. And we would like to include in the  
18 process an appeal process for product manufacturers to  
19 resolve those disputes.

20           And other changes to improve clarity and  
21 specificity, specifically the definitions I mentioned  
22 previously.

23           We feel there will be significant benefits to  
24 updating the revised regulations, indeed, making them  
25 easier to read and easier to understand both for the

1 regulated community and for the Board. Also incorporating  
2 the processes that I've mentioned will again help greatly  
3 to increase the understanding and implementation -- ease  
4 of implementation of the program.

5 BOARD MEMBER CHESBRO: Madam Chair, is the  
6 presentation complete?

7 PLASTICS RECYCLING TECHNOLOGY SECTION SUPERVISOR

8 LEAON: Almost there. Sorry about that.

9 So, again, improving the clarity and specificity  
10 in the regulations. And the overall objective is to  
11 improve the efficiency and effectiveness in which the  
12 Board can implement and enforce this program.

13 --o0o--

14 PLASTICS RECYCLING TECHNOLOGY SECTION SUPERVISOR

15 LEAON: So in conclusion, we believe that the regulatory  
16 changes proposed and to be addressed in the rulemaking  
17 will support the intent of the law to divert materials  
18 from landfills and to support markets for postconsumer  
19 materials. And staff recommends that the Board direct us  
20 to implement Option 1 in which we'll inform the advisory  
21 committee, conduct workshops with the larger stakeholder  
22 audience, and then bring the revised regulations back to  
23 the Board for approval to notice.

24 And that concludes my presentation.

25 CHAIRPERSON MULÉ: Thank you, Michael.



1 Board Member Chesbro.

2 BOARD MEMBER CHESBRO: In light of how long it's  
3 been since the regs have been updated, and in light of I  
4 think the fairly defined task -- it's not like the  
5 broadest possible policy discussion about what should we  
6 do about plastic. It's implementing statute and changes  
7 based on experience that has been accumulated.

8 I guess I'm concerned about time and whether or  
9 not you need -- and this is a question. And I'm open to  
10 being convinced. But whether or not we really need to  
11 start with an undefined sort of interest group discussion  
12 or whether it would be more efficient to start with some  
13 sort of a document or draft to then gather interest  
14 groups.

15 And, I mean, I'm not trying to -- I don't think  
16 in any way we should avoid public participation by the  
17 folks who are interested or who are affected. But rather  
18 than starting, you know, with the full universe, trying to  
19 narrow the universe somewhat initially. And then getting  
20 them together and saying, what do you think, folks, try to  
21 speed it up a little bit. That would be my question. And  
22 if there's something I'm not thinking of about why we have  
23 to start so broadly, I'm certainly open to hearing that.

24 CHAIRPERSON MULÉ: I think that's a great idea to  
25 define the issues. I think we have a handle on what the

1 problem areas are, if you will, or the areas that need  
2 addressing. And so I think that that's a good suggestion.

3 I'm looking over at Mark. Mark, do you want to  
4 address that?

5 EXECUTIVE DIRECTOR LEARY: I'd be happy to, but I  
6 think Michael and Bill could, too.

7 I think we do have a fairly refined set of issues  
8 that we're ready to start to deal with. So it isn't in  
9 any way, shape, or form a blank slate that we're starting  
10 with. I think we've got the current regs to build from  
11 that need to be refined and moved away from the question  
12 and answer format as well as a series of issues, I think a  
13 good part of which are listed on Page 4 of the agenda item  
14 that discuss kind of some the things we look to tackle  
15 first and foremost.

16 The only tempering of my enthusiasm moving  
17 forward quickly is, as we all know, this is a fairly  
18 contentious issue. And it does involve quite a bit of  
19 stakeholder input. I think there will be a lot of  
20 stakeholders who will seek to affect the roles. And the  
21 question is, you know, that's always a challenge for us to  
22 wade through a lot of input with the limited resources we  
23 have.

24 BOARD MEMBER CHESBRO: Well, Madam Chair, that  
25 being said, if you assume we're not trying to somehow

1 limit stakeholder participation, because that's not my  
2 point, it would make sense to me that Option -- or even  
3 possibly Option 3, but Option 2 is sort of in between,  
4 which starts trying to put some framework in place for the  
5 interest groups to respond to, rather than sort of  
6 starting out just with general discussions about where we  
7 ought to be going. Those are my thoughts. And, again,  
8 I'm interloping. I'm not a member of the Committee.

9 CHAIRPERSON MULÉ: That's fine. We appreciate  
10 your input.

11 RECYCLING TECHNOLOGIES BRANCH MANAGER ORR: This  
12 is Bill Orr with the Recycling Technologies Branch.

13 I think we could pursue a couple of different  
14 courses in that regard. One would be to have a very  
15 narrowly defined set of options like the ones that we have  
16 laid out in the agenda where we would pursue what some of  
17 the options to address each of those issues could be. The  
18 other option would be to actually have a straw proposal  
19 that would be staff's first cut at what each of those  
20 areas might look like. And so I think those are two  
21 different ways that we could pursue through the advisory  
22 committee setting, subject to the Committee's direction.

23 BOARD MEMBER CHESBRO: From my standpoint, the  
24 more specificity you start with -- and it's not to say it  
25 can't be changed, because that's the only way you get the

1 stakeholders together. But you focus the discussion  
2 rather than starting from a very, very broad discussion,  
3 the more specificity you can get to to put before them,  
4 the better, in my opinion.

5 CHAIRPERSON MULÉ: Thank you.

6 Board Member Danzinger, do you have anything?

7 COMMITTEE MEMBER DANZINGER: No. I mean, that  
8 sounds prudent. You know, I mean, if that's what we're  
9 going to consider, I guess I need to hear a little bit  
10 more how that would look. And I'm guessing that the  
11 people who came here to speak on this issue now have  
12 something different to comment on. So we probably need to  
13 flush this out verbally a little bit more as to -- because  
14 that's not on paper here. I mean, what exactly are we  
15 talking about then? Because I agree that the law has been  
16 on the books for a long time. And, you know, I mean, so  
17 there's certainly a large compendium of dialogue and back  
18 and forth and knowledge that we gleaned from all this that  
19 I guess could be built into a quicker jump start to the  
20 process. But how would that look and how would that play  
21 out?

22 CHAIRPERSON MULÉ: Let's hear from our two  
23 speakers. We have two speakers. George Larson first.

24 MR. LARSON: Madam Chair, Board members, I'm  
25 George Larson representing Illinois Tool Works and the

1 American Chemistry Council. So I am responding to a bit  
2 of a moving target here, but I certainly understand the  
3 Senator's point. Besides that, it was made clear that in  
4 order to be on the advisory committee, you had to be an  
5 expert, which would have excluded me. So maybe we can get  
6 rid of that.

7 BOARD MEMBER CHESBRO: You have some expertise,  
8 George.

9 MR. LARSON: In, you know, looking at the history  
10 of the Board's handling of these issues -- and maybe this  
11 certainly isn't as complex as the postclosure issue, it's  
12 still complex. The Board in direction in the past has  
13 this informal process before going into the formal  
14 process. So I think if I were to have my input here just  
15 responding to what this discussion is this morning that we  
16 still need to have an informal process to get some key  
17 people together and flush out some ideas and give some  
18 thoughts to staff before they put something down in  
19 writing. But of course, you'll make that final decision.

20 I do support, as I came prepared to comment, the  
21 staff's recommendation. But I understand that there is  
22 some concerns about scheduling.

23 I also would just like to make two comments about  
24 the list on your Item 9, page 4. There's a list of eight  
25 items there. And I just -- and Senator Chesbro, thank you

1 for being the author of both 743 and 1344, which I believe  
2 firmly broadens the base to create the upward pressure if  
3 you will to pull the rope rather than push it and creating  
4 new and better markets for postconsumer resin.

5           Having said that, it's important that staff look  
6 at those laws carefully as it relates to container  
7 manufacturers. Most of the focus in one through eight  
8 here are to the product manufacturers. The whole point  
9 was they're having some personal experience from my client  
10 who was fined because a container manufacturer wasn't  
11 fully forthcoming in their certification. Did I say that  
12 right? Still got a fine. So this levels the playing  
13 field as it were to bring them into the flock.

14           Besides that, I don't have these numbers, and I  
15 know your staff are more expert than me. But there's a  
16 whole much larger universe of product manufacturers than  
17 container manufacturers. So that might be another  
18 effective tool for you to focus a message to the most  
19 critical audience.

20           And then, finally, I would hope that in the  
21 regulatory review that the entire regulations package  
22 would be open for discussion and possible review. And  
23 specifically, I believe there was a very effective  
24 mechanism prior to the establishment of the enforcement  
25 schedule as it's referred to, you know. Go to box nine,

1 move over to three, and it's \$25,000. There used to be a  
2 Compliance Order, and the Compliance Order company  
3 recognized and acknowledged that they were not in  
4 compliance with the law, sat down with your Program and  
5 Legal staff and crafted a Compliance Order to take the  
6 specific actions to come into compliance. And I believe  
7 that's the intent of the law is to bring everybody into  
8 compliance, not just to fine them financially. So I would  
9 like to request that that specific issue be included in  
10 the discussion. Thank you.

11 CHAIRPERSON MULÉ: Thank you.

12 Our next speaker is Randy Pollack.

13 MR. POLLACK: Thank you, Madam Chair and Board  
14 members. My name is Randy Pollack. For the past eight  
15 years, I've been representing several companies and  
16 manufacturers in complying with the RPPC law.

17 I was here to support Option 1, because I think  
18 it's very important that the knowledge that we have  
19 learned from the manufacturing side and also the container  
20 manufacturing side that we be able to contribute what we  
21 see are the issues that we think need to be looked at  
22 during this whole process. What the Board and their staff  
23 may be thinking about what to do with this program, we  
24 believe it's also important to hear from us. Because in  
25 trying to have companies comply with this law, we've run

1 into a series of difficulties, which we have talked to  
2 informally with the Board and staff, but would be more  
3 important just to have an opportunity of sitting down with  
4 the staff and lay out what we see the concerns. So we  
5 believe in an informal setting that would be very helpful.  
6 We can bring in players such as some of the major  
7 retailers who have some concerns with the law in trying to  
8 comply with it. For that reason, we would be in strong  
9 support of Option 1. Thank you.

10 BOARD MEMBER CHESBRO: Let me ask a question.

11 CHAIRPERSON MULÉ: Sure.

12 BOARD MEMBER CHESBRO: Randy, did you see any  
13 problem with the process being so long as to allow  
14 uncertainty to fester in terms of where this thing is  
15 going and causing problems because we take too long? I'm  
16 trying to find the balance between what I think is  
17 legitimate in terms of what you and George Larson have  
18 said about participation on the one hand. On the other  
19 hand, not having an uncertain regulatory climate about  
20 where this thing is going.

21 MR. POLLACK: In response to that, I would say  
22 companies that I represent, they would be here -- if you  
23 want meetings for the next week or two weeks to sort of  
24 handle something, they will be here. They believe this is  
25 a very important issue. They aren't trying to string out



1 a process. They're more than willing to work the Board  
2 and the staff in whatever sort of time frame they want.  
3 If they want to do an informal hearing in the next month,  
4 so then within the next couple months they can draft out.  
5 We don't believe that such discussions would really delay  
6 the process that long.

7 COMMITTEE MEMBER DANZINGER: I'm glad you  
8 mentioned that, because that was going to be my question.  
9 Because the difference in the timing appears to be the  
10 existence or nonexistence of an informal process. And the  
11 item references in the next several months, how rapidly  
12 could we move through an informal process that gives us --  
13 you know, informs us on, you know, what's happening out  
14 there and all this and that. And so it keeps that, but  
15 you know, gets us to the next stage pretty quick. I don't  
16 know how long that --

17 CHAIRPERSON MULÉ: I think that we can set those  
18 parameters. I mean, that's it. I think that's Board  
19 Member Chesbro's point, is we can drag this on for years  
20 on end, and we want to get this process completed as  
21 effectively and efficiently as we can. So I think that  
22 there's some compromise in here. I agree with you,  
23 Senator Chesbro, is that we need to get moving on this,  
24 because it's been frustrating for all of us, stakeholders,  
25 staff, Board members, all involved.

1           So I think rather than say Option 1 or Option 2,  
2 let's maybe perhaps do a hybrid of 1 and 2 and include all  
3 those items. But we would like to see a schedule if you  
4 can come back to us with a schedule of when you will have  
5 this done so that we are assured that this process will be  
6 conducted within a certain time line.

7           BOARD MEMBER CHESBRO: Randy said a week or two,  
8 so let's go. I'm sure that won't be a problem for the  
9 staff.

10          MR. POLLACK: We'll be at the meeting next week.

11          CHAIRPERSON MULÉ: The other issue that I want to  
12 bring up is we did receive a number of letters from a  
13 number of companies. I won't name them all: KW Plastics,  
14 Clean Tech, Envision Plastics, Talco indicating there  
15 seems to be a perception out there that there is a lack of  
16 enforcement for the current certification process.

17          And, Mark, I would appreciate if you can address  
18 that. Because I'm concerned that there is this perception  
19 that there is a lack of enforcement going on, and we know  
20 that not to be the case.

21          EXECUTIVE DIRECTOR LEARY: Thank you, Madam  
22 Chair. I share your concern, and I was also a recipient  
23 of those letters as you know. And, in fact, I met with  
24 many of the letter writers last week in my office either  
25 in person or via conference call and explained to them

1 that it's kind of an unfortunate misperception on their  
2 part that somehow enforcement is not continuing in our  
3 RPPC program.

4 I suppose the reason that they're coming to that  
5 conclusion or making that suggestion is the 2005 process  
6 has been a little bit delayed. But as I reassured those  
7 letter writers last week, that delay does not necessarily  
8 mean it's been stymied or stopped in any way, shape, or  
9 form. In fact, we look to kick that process back up in  
10 the very near future and continue it to its completion in  
11 the coming months.

12 So with that reassurance, I felt like the letter  
13 writers who are making the suggestion were convinced that  
14 it is, in fact, not discontinued in any way, shape, or  
15 form and are looking forward to our continuance of the  
16 2005 process.

17 CHAIRPERSON MULÉ: Thank you. Thank you very  
18 much.

19 BOARD MEMBER CHESBRO: Madam Chair, in the spirit  
20 of the idea of speeding things up, rather than having this  
21 Committee wait a month, is it conceivable by that the  
22 Board meeting next week that what the Chair requested  
23 could be before the Board?

24 CHAIRPERSON MULÉ: Excellent suggestion. Staff,  
25 you can bring back a time line to us for the Board

1 meeting, and we can just bring this up. So we'll just  
2 have this heard before the full Board so you can bring  
3 back a time line for us.

4 ACTING DEPUTY DIRECTOR SMITH: Correct.

5 RECYCLING TECHNOLOGY BRANCH MANAGER ORR: Just  
6 one point of clarification. In terms of whether or not we  
7 would have sort of the concept step before we would do a  
8 straw proposal, do you want us to do it both ways and you  
9 could look at it either way, or do you want us to start  
10 with more of a staff draft reg proposal?

11 CHAIRPERSON MULÉ: No. I think what we had said  
12 is come back with Option 1 which is the concepts. Okay.  
13 But we want a time line on when you're going to get this  
14 done. So you include the informal process and the  
15 advisory committee. You're going to convene the advisory  
16 committee, but we want to speed it up a little bit.

17 COMMITTEE MEMBER DANZINGER: With an  
18 encouragement to be as ambitious as you feel comfortable  
19 on the timing of the informal stage of the process.

20 BOARD MEMBER CHESBRO: I'm going to say one more  
21 thing to be self-evident. I apologize if it is. But it  
22 needs to be a very diverse and balanced Committee.  
23 Because there's folks who don't have as immediate a stake  
24 as the product and container manufacturers, but who do pay  
25 the price at the collection and recycling and disposal and

1 the private waste haulers in local government as well as  
2 the environmental community who have a real stake in what  
3 happens with plastics. So it needs to be more than just  
4 the folks who are regulated in order for it to be a  
5 balanced discussion.

6 CHAIRPERSON MULÉ: Great. So you have direction.  
7 You understand it. Good.

8 Any other comments? Any further public input?

9 Seeing none, this meeting is adjourned. Thank  
10 you all.

11 (Thereupon the California Integrated Waste  
12 Management Board, Board of Administration  
13 Permitting and Enforcement Committee  
14 adjourned at 12:42 p.m.)

15

16

17

18

19

20

21

22

23

24

25

1 CERTIFICATE OF REPORTER

2 I, TIFFANY C. KRAFT, a Certified Shorthand  
3 Reporter of the State of California, and Registered  
4 Professional Reporter, do hereby certify:

5 That I am a disinterested person herein; that the  
6 foregoing hearing was reported in shorthand by me,  
7 Tiffany C. Kraft, a Certified Shorthand Reporter of the  
8 State of California, and thereafter transcribed into  
9 typewriting.

10 I further certify that I am not of counsel or  
11 attorney for any of the parties to said hearing nor in any  
12 way interested in the outcome of said hearing.

13 IN WITNESS WHEREOF, I have hereunto set my hand  
14 this 14th day of March, 2007.

15

16

17

18

19

20

21

22 TIFFANY C. KRAFT, CSR, RPR

23 Certified Shorthand Reporter

24 License No. 12277

25